

800 MAIL ROOM

DOCKET FILE COPY ORIGINAL

Oct 22 3 9  
Federal Communications Commission

FCC 98-234

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of )  
)  
Biennial Regulatory Review -- Amendment of )  
Parts 0, 1, 13, 22, 24, 26, 27, 80, )  
87, 90, 95, 97, and 101 of the Commission's Rules )  
to Facilitate the Development and Use of the )  
Universal Licensing System in the Wireless )  
Telecommunications Services )  
)  
Amendment of the Amateur Service Rules to )  
Authorize Visiting Foreign Amateur Operators )  
to Operate Stations in the United States )  
)

WT Docket No. 98-201 ✓

WT Docket No. 96-188

RM-8677

**REPORT AND ORDER**

**Adopted:** September 17, 1998

**Released:** October 21, 1998

By the Commission: Commissioner Furchtgott-Roth issuing a statement.

**TABLE OF CONTENTS**

	<u>Paragraph Number</u>
I. INTRODUCTION AND BACKGROUND .....	1
II. EXECUTIVE SUMMARY .....	9
III. DISCUSSION	
A. Electronic Filing and New Forms	

1. Consolidation of Application Forms	11
2. Mandatory Electronic Filing	20
a. Transition Period	21
b. Exempt Wireless Services	26
c. Computer Facilities	29
3. Copy and Microfiche Requirements	33
4. Electronic Filing of Pleadings Associated with Applications	38
5. Letter Requests	48
 B. Standardization of Practices and Procedures for WTB Applications and Authorizations	
1. Consolidation of Procedural Rules in Part 1	55
2. Standardization of Major and Minor Filing Rules	58
3. Submission of Ownership Information	74
4. Frequency Coordination: Amendments/Modification	84
5. Returns and Dismissals of Incomplete or Defective Applications	89
6. Discontinuation of "Reinstatement" Applications	95
7. Construction and Coverage Verification	102
8. Assignments of Authorization and Transfers of Control	109
9. Change to North American Datum 83 Coordinate Data	123
10. Use of Taxpayer Identification Numbers	132
 C. Collection of Licensing and Technical Data	
1. Overview	143
2. Notification or Certification in Lieu of Informational Filings	151
3. Public Mobile Radio Service Data Requirements	153
4. Fixed Microwave Service Data Requirements	160
5. Maritime and Aviation Services Data Requirements	165
6. Commercial Radio Operator License Data Requirements	168
7. Amateur Radio Services	172
8. General Mobile Radio Service	
a. Inclusion in the Proceeding	183
b. Regulatory Policy	185
c. Eligibility	189
d. Channeling Plan	191
e. Information Collection	196
f. Antenna Requirements	201
g. Permissible Communications	203
h. Rules Pertaining to Management of a GMRS System	205
 IV. PROCEDURAL MATTERS	
A. Regulatory Flexibility Act	208
B. Paperwork Reduction Act	209
C. Further Information	210

**V. ORDERING CLAUSES**

- Appendix A: Names of Commenters and Reply Commenters
- Appendix B: Final Regulatory Flexibility Analysis
- Appendix C: ULS Forms (Forms 601, 602, 603, and 605)
- Appendix D: NAD 83 Coordinate System
- Appendix E: ULS Rule Conversion Chart
- Appendix F: Comparison of Consolidated Part 1 (Subpart F) Rules and Former Service-Specific Procedural Rules
- Appendix G: Final Rules

## I. INTRODUCTION AND BACKGROUND

1. In this *Report and Order*, we consolidate, revise, and streamline the Commission's rules governing license application procedures for radio services licensed by the Wireless Telecommunications Bureau (WTB or Wireless Bureau).<sup>1</sup> These rule changes will enable us to fully implement the Universal Licensing System (ULS), the Commission's new automated licensing system and integrated database for wireless services. We also adopt new consolidated application forms, which will enable all wireless licensees and applicants to file applications electronically in ULS. Further, we also establish procedures to ensure a smooth transition from our pre-existing licensing processes to the processes developed for ULS.

2. The development of ULS represents a fundamental change to the manner in which we receive and process wireless applications. Previously, wireless applicants and licensees used a myriad of forms for various wireless services and types of requests, and the information provided on these applications has been collected in separate databases, each for a different group of services. Although in some instances, these forms could be filed electronically, many of these existing systems do not accommodate electronic filing, instead requiring information to be submitted on paper and then manually keyed into the database by FCC staff. This patchwork approach to application processing has caused a significant waste of time and resources on the part of applicants and licensees, who must often file duplicative information in different databases following varying procedures. The maintenance of multiple databases also impedes the Commission's ability to carry out its licensing responsibilities efficiently, and impedes the public's access to licensing information because the information is not centrally located and frequently not available in an easily usable form.

3. Over the past few months, the Wireless Bureau has begun an incremental deployment of ULS, which will ultimately provide a single technological platform for filing applications and information collection from all wireless licensees and applicants. The Wireless Bureau has used ULS for all post-auction licensing since December 1997, and will be using it in conjunction with post-auction licensing in all future auctions. In addition, the Wireless Bureau has begun the phased transition of licensing data for each of the existing wireless services from their present databases to ULS, after which all future licensing activity in each service will be in ULS. Thus, the database for common carrier paging was transferred to ULS in June 1998, and PCS and WCS were converted in

---

<sup>1</sup> WTB licenses the following Commercial Mobile Radio Services (CMRS) and Private Mobile Radio Services (PMRS): Personal Communications Service (PCS), Cellular Radiotelephone Service (Cellular), Public Mobile Services other than cellular (*i.e.*, Paging and Radiotelephone, Rural Radiotelephone, Offshore Radiotelephone, Air-Ground Radiotelephone), Specialized Mobile Radio Service (SMRS), Wireless Communications Service (WCS), Local Multipoint Distribution Service (LMDS), Fixed Microwave Service, Private Land Mobile Radio Services (PLMRS), Maritime Services, Aviation Services, Amateur Radio Services, and Personal Radio Services. Additionally, WTB processes applications for the Broadcast Auxiliary Service (pursuant to an agreement with the Mass Media Bureau), requests by tower owners for Antenna Structure Registrations (FCC Form 854), and requests for Restricted and Commercial Radio Operator Licenses.



September 1998. Other services, such as Cellular, Microwave, and Land Mobile, will be switched to ULS in subsequent stages later this year or early next year. We anticipate that ULS will be fully operational in all wireless services by April 1999.

4. Once fully deployed, ULS will eliminate the need for wireless carriers to file duplicative applications, and will increase the accuracy and reliability of licensing information. ULS will also enable all wireless applicants and licensees for the first time to file all licensing-related applications and other filings electronically, thus increasing the speed and efficiency of the application process. This will also benefit wireless applicants and licensees by reducing the cost of preparing applications, and will speed the licensing process, so that we can introduce new entrants more quickly into this already competitive industry. The enhanced information collection capabilities of ULS will, in turn, enable the Commission staff to easily monitor spectrum use and competitive conditions in the wireless marketplace and will promote effective implementation of our spectrum management policies. Finally, ULS will enhance the availability of licensing information to the public, which will for the first time have access to all publicly available wireless licensing information on-line, including maps depicting a licensee's geographic service area.

5. We have also taken steps throughout the ULS development process to protect both system integrity and the confidentiality of information pertaining to applicants and licensees. To ensure the integrity of the licensing process, we have initiated a registration process in which wireless applicants and licensees register their Taxpayer Identification Numbers (TINs), self-assign a password, and then associate all of their call signs with the registration. Thus, only registered users will have access to the electronic filing features of ULS with respect to their own licensing data. These safeguards are designed to protect the confidentiality of pre-filed applications and FCC forms before they are filed and become publicly available. Additionally, all electronic filing transactions will occur on the FCC's wide area network through a direct connection, so that application data will not be transmitted on the Internet, which is less secure. Once data has been entered into ULS, sensitive data such as TINs will not be accessible to the public. Finally, we have created redundant systems and backup procedures to safeguard against loss of data or system access should a system failure occur.

6. On February 19, 1998, we adopted the *ULS Notice*, in which we proposed to develop ULS for all wireless services and to implement a variety of changes to existing rules and procedures in order to facilitate the deployment of ULS.<sup>2</sup> We noted that the implementation of ULS required conforming changes to our wireless licensing rules to reflect new electronic filing procedures, new electronic forms, and other technical changes in the licensing process. We also noted that the development of ULS provided us with an opportunity to simplify and streamline the Commission's rules in other ways as well. Thus, we proposed to consolidate our wireless radio services licensing rules in a single section of Part 1, to the extent practicable, and to eliminate dozens of corresponding

---

<sup>2</sup> Amendment of Parts 0, 1, 13, 22, 24, 26, 27, 80, 87, 90, 95, 97, and 101 of the Commission's Rules to Facilitate the Development and Use of the Universal Licensing System in the Wireless Telecommunications Service, *Notice of Proposed Rulemaking*, 13 FCC Rcd. 9672 (1998) (*ULS Notice*).

duplicative rules in other service-specific rule parts.<sup>3</sup> We also proposed to introduce new consolidated application forms and to require electronic filing of most forms. Finally, in addition to proposing rule changes needed to fully deploy ULS, we also proposed to streamline or eliminate technical data collection requirements in some services, and to streamline our licensing procedures in the General Mobile Radio Service (GMRS). While many of these proposed changes were procedural in nature, we considered it important to seek comment on the full impact of these changes on licensees and the public.<sup>4</sup>

7. In the *ULS Notice*, we also designated this proceeding as part of our 1998 biennial review of regulations pursuant to section 11 of the Communications Act of 1934, as amended, (Communications Act).<sup>5</sup> Section 11 requires us to review all of our regulations applicable to providers of telecommunications services and determine whether any rule is no longer in the public interest as the result of meaningful economic competition between providers of telecommunications service.<sup>6</sup> As part of our biennial review, we stated that our goal in this proceeding was to establish rules that (1) reduce filing requirements as much as possible; (2) eliminate redundant, inconsistent, or unnecessary submission requirements; and (3) assure ongoing collection of reliable licensing and ownership data.<sup>7</sup> Accordingly, we proposed in the *ULS Notice* to revise our regulations to efficiently collect from wireless services applicants and licensees only the data necessary to effectuate our statutory spectrum management and compliance responsibilities.<sup>8</sup>

8. We received 77 comments and 17 reply comments in response to the *ULS Notice*.<sup>9</sup> In addition, we held several open forums on ULS for the public and for industry representatives, which yielded many insightful comments and suggestions. We have also worked closely with groups such as the FCBA to further refine our proposals.<sup>10</sup>

---

<sup>3</sup> *Id.* at 9676, ¶ 7.

<sup>4</sup> *Id.* at 9678, ¶ 13.

<sup>5</sup> *Id.* at 9676, ¶ 8.

<sup>6</sup> *See* 47 U.S.C. § 161.

<sup>7</sup> *ULS Notice* at 9676, ¶ 8.

<sup>8</sup> *Id.*

<sup>9</sup> A list of the abbreviated names of commenters and reply commenters used in this *Report and Order* is contained in Appendix A.

<sup>10</sup> On July 31, 1998, PCIA submitted a letter to the Wireless Bureau proposing to streamline and eliminate certain wireless regulations. The Wireless Bureau released a public notice seeking comment on PCIA's letter. *See Public Notice, Wireless Bureau Seeks Comment on July 31, 1998 Letter From Personal Communications Industry Association Proposing Streamlining of Wireless Regulations*, DA 98-1687 (rel. August 21, 1998).

## II. EXECUTIVE SUMMARY

9. In this *Report and Order*, we substantially adopt the proposals set forth in the *ULS Notice* to consolidate our wireless services filing and processing rules, including transitioning to new filing forms compatible with ULS. We also eliminate a large number of unnecessary rules and duplicative forms that are not necessary in light of the development of ULS. In making these changes, we have implemented many of the suggestions made by commenters for further streamlining of the Commission's rules and refinement of our application forms. We also acknowledge the concern that many commenters have expressed regarding our proposed timetable for implementing ULS, including our proposals for mandatory electronic filing of applications. We agree with these commenters that modification of this timetable is appropriate to ensure that ULS is fully tested and that users have a reasonable transition period to become familiar with the system before we impose any mandatory requirements.

10. Specifically, we take the following actions in this *Report and Order*:

- We adopt the following four consolidated ULS application forms for wireless services, which includes some modifications suggested by commenters, to replace approximately 41 application forms currently in use:<sup>11</sup>

(1) Form 601 (Long-Form or FCC Application for Wireless Telecommunications Bureau Radio Service Authorization) -- This form is to be used by those filing an initial licensing application. It will also be used by licensees applying for license modifications, renewals, or grants of special temporary authority in the majority of wireless services.

(2) Form 602 (FCC Ownership Disclosure Information for the Wireless Telecommunications Services) -- This form is to be used by applicants or licensees to submit initial and updated ownership information in conjunction with license applications, license assignments, and transfers of control for wireless services that are licensed by auction only.

(3) Form 603 (FCC Wireless Telecommunications Bureau Application for Assignment of Authorization or Transfer of Control) -- This form is to be used by all wireless services, for approval of license assignments and transfers of control. It combines the separate forms proposed in the *ULS Notice* (Forms 603 and 604).

(4) Form 605 (Quick-Form Application for Authorization in the Ship, Aircraft, Amateur, Restricted and Commercial Operator, and General Mobile Radio Services) -- This form is to be used by applicants or licensees for wireless services that are not auctionable and are not required to provide technical data to obtain a license (*i.e.*, General Mobile Radio Service, Amateur Radio Service, Ship, Aircraft, Restricted and Commercial Radio Operators).

---

<sup>11</sup> The new forms are contained in Appendix C, *infra*.

- We modify Forms 601 and 603 to collect information, on a voluntary basis, regarding ownership and control of wireless licensees by women and minorities. This information will be used for statistical and informational purposes only and will not affect the review or processing of applications.
- We will allow continued use of existing (pre-ULS) forms for a transition period of six months after the effective date of these rules. This transition period will give applicants and licensees flexibility to plan an orderly transition from the use of old forms to the use of new ULS forms.
- Electronic filing for applicants and licensees in services that are licensed by auction will be mandatory, but electronic filing will be optional for applicants and licensees in services that are not subject to licensing by auction. For each service that is subject to mandatory electronic filing, these requirements will take effect on July 1, 1999, or six months after we begin use of ULS in the particular service, whichever is later. This does not affect our prior decision to require applicants for auctions to file both FCC Form 175 and FCC Form 601 applications electronically as of January 1, 1999.<sup>12</sup>
- Electronic filing will be mandatory for applications filed by frequency coordinators and by volunteer examiner-coordinators (VECs) in the Amateur service. These requirements will take effect on July 1, 1999, or six months after we begin use of ULS in the particular service, whichever is later.
- We will take steps to ensure that ULS electronic filing and data programs are accessible to persons with disabilities in compliance with our program accessibility rules and the new requirements of the Workforce Investment Act of 1998.
- We will no longer accept letter requests as a substitute for authorizations that can be requested on ULS forms. This change includes extension of time requests to meet our construction requirements or extend consummation periods, requests for license cancellations, requests for special temporary authority, and licensee's reporting of name and address changes. This decision will take effect six months from the effective date of the rules.
- We consolidate all rules governing the filing and processing of applications for wireless services into a single set of rules in Part 1.
- We adopt a consolidated rule for determining whether a change to a pending application or existing authorization is treated as a major or minor modification or amendment. We also clarify that under this rule, no license modification application is required for geographic licensees to move, add, or delete an internal site in their licensing areas, except in certain instances where specific sites require environmental approval or international coordination.

---

<sup>12</sup> Amendment of Part 1 of the Commission's Rules -- Competitive Bidding Procedures, *Third Report and Second Further Notice of Proposed Rulemaking*, 13 FCC Rcd. 374, 412, ¶ 62 (1997) (*Part 1 Third Report and Order*).

- We eliminate reinstatement procedures in those wireless services that previously had them. ULS will provide for notification by mail to all wireless licensees ninety days prior to the expiration date of their licenses, and will allow them to file the renewal application at any time in that ninety day period. A licensee who fails to file a timely renewal application has no right to reinstatement, but must file a new application.

- For transfer and assignment applications, we will enable both parties to a proposed transaction to sign the application form electronically and verify its contents before the form is filed. The combined transfer/assignment form (Form 603) may also be used to provide notification of consummation of a transfer or assignment transaction.

- We will require the submission of a Taxpayer Identification Number (TIN) by applicants and licensees using ULS, consistent with the requirements of the Debt Collection Improvement Act of 1996. We will also collect TIN information of persons and entities that are attributable interestholders in licensees who must file Form 602. In all cases, TIN information will be kept confidential so that no unauthorized person will have access to the information. Applicants who use frequency coordinators to file their applications will not be required to disclose their TIN to the frequency coordinator. Applicants who use frequency coordinators to file their applications will not be required to disclose their TIN to the frequency coordinator, so long as the TIN has been registered by the applicant with the Commission.

- We eliminate or modify certain technical data reporting requirements pertaining to specific services. This includes: (1) eliminating requirements that LMDS, 800 MHz SMR, and 220 MHz auction winners file site data with the Commission, so long as they maintain such data in their station records and make it available on request; (2) replacing certain informational filing requirements with simple notifications or certifications, (3) deleting certain technical data filing requirements applicable to licensees in the Public Mobile Services, Fixed Microwave Services, Maritime and Aviation Services, and to Commercial Radio Operators.

- We adopt proposals made in WT Docket 96-188 to authorize reciprocal operation by foreign amateur radio licensees by rule pursuant to recent international reciprocal operating agreements.

- We have identified numerous GMRS rules to be eliminated and streamlined as duplicative or unnecessary to our regulatory responsibilities, and these rule changes will also facilitate the conversion of our data collection procedures and databases to ULS.

### III. DISCUSSION

#### A. Electronic Filing and New Forms

##### 1. Consolidation of Application Forms

11. Background. In the *ULS Notice*, we proposed to reduce the number of FCC forms used in the WTB application and licensing process from forty-one to five.<sup>13</sup> We noted that consolidating our forms would not only streamline the processing of applications but would reduce the filing burden for wireless applicants and licensees.<sup>14</sup> We sought comment on the following proposed forms designed specifically for ULS use: FCC Forms 601 (Long-Form or FCC Application for Wireless Telecommunications Bureau Radio Service Authorization), 602 (FCC Ownership Disclosure Information for the Wireless Telecommunications Services), 603 (FCC Wireless Telecommunications Bureau Application for Assignment of Authorization), 604 (FCC Wireless Telecommunications Bureau Application for Transfer of Control) and 605 (Quick-Form Application for Authorization in the Ship, Aircraft, Amateur, Restricted and Commercial Operator, and General Mobile Radio Services).<sup>15</sup> While some of these forms have already received OMB approval and are being used on a limited basis,<sup>16</sup> we sought comment on whether further modifications should be made to the proposed forms prior to the full deployment of ULS.<sup>17</sup> We also tentatively concluded that the filing of separate long-form (FCC Form 601) applications for each geographic license won at auction was not expedient and created undue burdens on the public and the Commission. We sought comment on our tentative conclusion to require the filing of only one long-form application for all licenses won in a single auction.<sup>18</sup>

---

<sup>13</sup> *ULS Notice* at 9679, ¶ 15.

<sup>14</sup> *Id.* at 9679-80, ¶ 16.

<sup>15</sup> We will continue to use the FCC Form 175, Short-Form Application for Auction-Related Services.

<sup>16</sup> For example, applicants have used the Form 601 (Long-Form) in the 800 MHz SMR auction (Auction Event No. 16) and the LMDS auction (Auction Event No. 17).

<sup>17</sup> The Office of Management and Budget (OMB) assigned the following control numbers to the ULS forms: Form 601 (FCC Application for Wireless Telecommunications Bureau Radio Service Authorization), OMB Control Number 3060-0798; Form 602 (FCC Ownership Disclosure Information for the Wireless Telecommunications Services), OMB Control Number 3060-0799; Form 603 (FCC Wireless Telecommunications Bureau Application for Assignment of Authorization), OMB Control Number 3060-0800; Form 604 (FCC Wireless Telecommunications Bureau Application for Transfer of Control) OMB Control Number 3060-0797. OMB approval is pending for Form 605 (Quick-Form Application for Authorization in the Ship, Aircraft, Amateur, Restricted and Commercial Operator, and General Mobile Radio Services).

<sup>18</sup> *ULS Notice* at 9679-81, ¶¶ 15-18.

12. Discussion. We adopt the proposed forms with some modifications. Most commenters agree with our overall proposal to simplify the application process by consolidating and unifying the forms used by wireless radio applicants and licensees.<sup>19</sup> One commenter observes that "the computerized, paperless filing offered by ULS is a tremendous improvement over paper filings."<sup>20</sup> In addition to the increased ease of filing afforded by ULS, we believe that applicants, licensees and the public will find discussing a particular application with the staff much easier and faster. The staff "will no longer have to rummage through reams of paper to find a particular filing, but instead the staff will be able to immediately access a filing merely by pointing and clicking onto the correct computer screen."<sup>21</sup> We conclude that the record broadly supports our decision to use consolidated forms designed for ULS in support of all wireless services application and licensing functions.

13. However, a few commenters urge the Commission to retain existing service-specific forms instead of creating new consolidated forms.<sup>22</sup> FIT, for example, suggests using Forms 601 and 605 for some wireless services, but proposes that we retain the current Form 600 for private land mobile, marine private coast, and aviation ground services, and that we continue to use Form 415 for all microwave services.<sup>23</sup> Similarly, TIA proposes that fixed point-to-point microwave applicants use Form 415 for applications, transfers, and assignments, because this form was designed specifically for microwave services.<sup>24</sup>

14. We disagree with the view that we should continue using existing service-specific forms for wireless services. The current array of over forty service-specific forms confuses the public and vastly increases the amount of time and staff resources needed to process applications. In addition, these forms were not designed for ULS, and in many instances cannot be electronically filed. While there may be instances where licensees are accustomed to using a particular service-specific form, the far greater benefits of ULS will not be fully realized if we were to continue using the existing forms. The new forms are not only consolidated, but are specifically designed for electronic filing in ULS. Moreover, applicants and licensees filing for multiple services will no longer need to submit duplicative information. Thus, while adoption of ULS forms will require wireless services applicants

---

<sup>19</sup> AASHTO Comments at 3 (suggests forms be user friendly and allow for information required by the Commission and frequency coordinators); AT&T Wireless Comments at 2; B&B Comments at 1-2; Nextel Comments at 2; PCIA Comments at 6; Radiofone Comments at 4 (supports filing assignment and transfer applications on ULS); FIT Comments at 3-5 (supports consolidation of forms, but contends some of the proposed forms with their instructions and attachments are too lengthy).

<sup>20</sup> EEC Comments at 1-2.

<sup>21</sup> *Id.*

<sup>22</sup> FIT Comments at 3-5; TIA Comments at 3-4.

<sup>23</sup> FIT Comments at 4-5.

<sup>24</sup> TIA Comments at 3-4.

and licensees to make some adjustments initially, over time consolidation of the forms will increase the speed and accuracy of the application process and expedite service to the public. It is also consistent with our objective to eliminate unnecessary service-specific distinctions in our application and licensing procedures, and provide the public with a consistent set of procedures and rules applicable to all wireless services.

15. Some parties also commented on the length of Form 601 and the number of proposed schedules to the form.<sup>25</sup> In fact, while the form and schedules in their totality appear substantial, they will be far less so in actual practice. Form 601 is structured much like the current Form 600, with a main form for basic applicant information and separate schedules for service-specific technical information. Generally, Form 601 filers will complete only the main form and the particular schedule(s) with information relevant to their particular wireless service. In addition, electronic filing of Form 601 will be faster and more efficient than filing Form 600, because the system will automatically "pre-fill" licensee information already in the system for Form 601 and will display only the portions of the form and schedules that require completion for the applicant's or licensee's indicated purpose.<sup>26</sup> This feature of ULS will lessen the burden on applicants and licensees, and will reduce the staff's processing time for wireless applications, so that licensees may provide service to the public quickly.

16. Nevertheless, in light of the significant changes to our wireless services forms, we will allow continued use of all existing (pre-ULS) forms for a transition period of six months after the effective date of this *Report and Order*.<sup>27</sup> This transition period is consistent with our past practice for introducing new forms.<sup>28</sup> A six-month transition period will provide wireless services applicants and licensees with sufficient time to plan an orderly transition from using existing forms to using the new ULS forms. At the conclusion of this period, only ULS forms will be accepted. Of course, wireless services applicants and licensees may begin using ULS forms sooner if they prefer, and we encourage

---

<sup>25</sup> FIT Comments 3-5; TIA Comments at 3-4.

<sup>26</sup> *ULS Notice* at 9687, ¶ 32. On-line help, including form instructions, is provided for electronic filers. One may also call the FCC Technical Support Hotline at (202) 414-1250; this phone line is generally available Monday through Friday, 8 a.m. to 6 p.m. *All calls to the FCC Technical Support Hotline are recorded.*

<sup>27</sup> This transition period does not apply to long-form applications by winning bidders in upcoming auctions. Such applications must be filed on Form 601.

<sup>28</sup> See "Wireless Telecommunications Bureau Announces Schedule for Implementation of New FCC Form 415," *Public Notice*, rel. February 3, 1997 (permitting a three month transition period); "Wireless Telecommunications Bureau Clarifies Acceptable Editions and Use of FCC Form 574," *Public Notice*, rel. August 16, 1996 (allowing applicants to file the FCC Form 574 for eight months even though it had been replaced by the FCC Form 600); "FCC Form 442," *Public Notice*, DA 96-3, rel. June 26, 1996 (accepting a previous version of the FCC Form 442 for six months).



them to do so.<sup>29</sup> It is in the applicant's or licensee's interest to use the ULS forms as they were created for ULS compatibility and will reduce processing time. In addition, an applicant or licensee electing to use an existing form must provide any new information now asked for on the ULS forms.

17. We received a variety of suggestions from commenters for modifying elements or particular questions on the proposed forms.<sup>30</sup> We find that many of these suggestions have merit, and we will modify the forms accordingly. For example, as suggested by a number of commenters,<sup>31</sup> we will combine Forms 603 and 604 into a single combined form for both assignments and transfers.<sup>32</sup> We will also modify the questions on Form 601 relating to alien ownership to limit the scope of questions that must be answered by non-common carrier licensees who are not subject to section 310(b) ownership requirements, and to account for indirect ownership of licensees by investors from World Trade Organization (WTO) member countries. Additionally, pursuant to section 1.2110(b)(2) of the Commission's rules, we will modify Forms 601 and 603 to collect information on a voluntary basis regarding the race, ethnicity and gender of wireless licensees and applicants.<sup>33</sup>

18. FCBA requests that we provide applicants with the ability to provide supplementary information which clarifies any question on a wireless application that calls for a "yes/no" response.<sup>34</sup> ULS forms and the application database will allow any applicant to file attachments to its wireless services application to clarify or explain its answer to a question. Whether filed electronically or manually (i.e., filed on paper), such attachments will be entered into the system as text files and will

---

<sup>29</sup> All applicants and licensees must include their registered TIN on the new forms. See Section III.B.10, *infra*.

<sup>30</sup> Bennet Comments at 2 (suggesting ownership structure be provided in diagram form and contends the Form 602 does not capture an applicant's affiliate relationships under §1.2110(b)(4)); PCIA Comments at 6 (suggesting more questions answerable by a "check mark" similar to "click-box" bidding in auctions); W5YI Comments at 7-9 (recommending changes to Form 605 for applicants and licensees in the Amateur Radio Services); GTE Comments at 14-16 (recommending changes to Schedule F of the Form 601).

<sup>31</sup> BAM Comments at 4; AT&T Wireless Comments at 6; SBC Comments at 4.

<sup>32</sup> See discussion in Section III.B.8, "Assignments of Authorization and Transfers of Control," *infra*.

<sup>33</sup> See 47 CFR § 1.2110(b)(2). This information will be used for informational purposes only and will not affect the substantive review or processing of applications. The information collected also conforms to the revised OMB standards for classification of data on race and ethnicity. See Office of Management and Budget, Revisions to the Standards for the Classification of Federal Data on Race Ethnicity, *Notice of Decision*, 62 Fed. Reg. 58782 (October 30, 1997).

<sup>34</sup> FCBA Comments at 3-5.

become part of the application record in ULS.<sup>35</sup> Thus, attachments will be viewable on-line by the applicant or licensee, the Commission, and the public.<sup>36</sup>

19. BAM interprets the *ULS Notice* as requiring a wireless services licensee to file a Form 601 every time a licensee makes any type of change to an existing license, even if it is a minor change.<sup>37</sup> We clarify that the purpose of creating a single database for wireless services is to eliminate the traditional practice of wireless applicants or licensees submitting duplicative and overlapping applications. Any time a wireless services applicant or licensee logs onto ULS to file an application, information previously entered into ULS will "pre-fill" or appear on the screen for inspection. If any information concerning the applicant or licensee has changed, it is the responsibility of the filer to update the information on its application as required by the Commission's rules.<sup>38</sup>

## 2. Mandatory Electronic Filing

20. **Background.** In the *ULS Notice*, we proposed requiring applicants, licensees, and frequency coordinators filing applications on behalf of applicants and licensees in all of the wireless services to file electronically beginning on January 1, 1999.<sup>39</sup> We stated our belief that beginning mandatory electronic filing on this date would be in the public interest because it would help to accomplish our goals of: (a) a rapid transition to ULS; (b) streamlining our wireless services application processing; (c) affording parties a quick and economical process to file wireless services applications; and (d) making all licensing information quickly and easily available to interested parties and the public.<sup>40</sup> Although we believe these benefits warrant mandatory electronic filing, we recognized that some wireless services applicants or licensees might lack access not only to high quality telephone lines but also computers capable of submitting their applications electronically.<sup>41</sup> For

---

<sup>35</sup> Although ULS successfully receives most Word, WordPerfect, and Excel files, the success of an attachment upload depends heavily on content. As a result, word processing files containing graphics and tables may not upload to ULS successfully. See Appendix G, *infra*, for a list of acceptable file formats for a ULS upload.

<sup>36</sup> Because attachments are created by the applicant or licensee and stored as text files, however, they will not be searchable based on discrete data elements, unlike ULS forms themselves.

<sup>37</sup> BAM Comments at 2.

<sup>38</sup> See 47 C.F.R. § 1.65 (requiring applicants or licensees to ensure the accuracy of information furnished to the Commission).

<sup>39</sup> *ULS Notice* at 9682, ¶ 21.

<sup>40</sup> *Id.*

<sup>41</sup> *Id.* at 9683, ¶ 22.

these reasons, we solicited comments on whether certain wireless radio services, or classes of applicants or licensees, should be exempt from our proposed requirement to file electronically.<sup>42</sup> We also requested comment on whether supplying Commission maintained computer facilities for public use would facilitate electronic filing.<sup>43</sup>

**a. Transition Period**

21. Most commenters agree that the use of electronic filing for wireless applications should be expanded and encouraged. AAR, for example, notes that electronic filing will allow quicker and less costly filing by applicants or licensees, quicker and more accurate processing by Commission staff, and speedier access to wireless services application and licensing information by the public.<sup>44</sup> This view is echoed by a broad range of commenters, such as AMTA, PCIA, AT&T, and Motorola.<sup>45</sup> Nevertheless, many of these same commenters urge the Commission to proceed cautiously before making electronic filing mandatory. While our proposed January 1, 1999 deadline is not without support,<sup>46</sup> the majority of commenters argue that this date is too soon to impose mandatory electronic filing.<sup>47</sup> Many of the commenters cite the need for more time to work out technical glitches that are inevitably found in new software packages.<sup>48</sup> Several commenters also argue that the wireless industry will need a longer transition period than was proposed in the *ULS Notice* to obtain experience using ULS.<sup>49</sup> Some commenters urge the Commission to provide more time for licensees to verify the accuracy of existing Commission records before ULS becomes operational.<sup>50</sup> A number of alternative

---

<sup>42</sup> *Id.*

<sup>43</sup> *Id.* at 9683, ¶ 23.

<sup>44</sup> AAR Comments at 3.

<sup>45</sup> AMTA Comments at 2; PCIA Comments at 3; AT&T Comments at 7; and Motorola Comments at 2.

<sup>46</sup> Motorola Comments at 2.

<sup>47</sup> ADT Comments at 3; AAA Comments at 3; AICC Comments at 3; AirTouch Comments at 3; ARRL Comments at 17-18; AMTA Comments at 4; APCO Comments at 3-4; API Comments at 6; BAM Comments at 7; BellSouth Comments at 8; FCBA Comments at 7; Nextel Comments at 3; Radiofone Comments at 1; TIA Comments at 8; UTC Comments at 3; Winstar Comments at 3-4; and of ADT Reply Comments at 1-2; AICC Reply Comments at 1-2.

<sup>48</sup> ADT Comments at 3; AAA Comments at 3; AICC Comments at 3; AirTouch Comments at 4; API Comments at 6; FCBA Comments at 7; Radiofone Comments at 1.

<sup>49</sup> AirTouch Comments at 4; APCO Comments at 3-4; BAM Comments at 6; BellSouth Comments at 8; FCBA Comments at 7; Nextel Comments at 3; UTC Comments at 3; Winstar Comments at 3-4.

<sup>50</sup> FCBA Comments at 10-11 (advocating that the Commission establish a program of scheduled review of databases by licensees modeled on the tower inventory and registration program of the past two years).

dates are suggested for the implementation of mandatory electronic filing.<sup>51</sup> Finally, several commenters oppose mandatory electronic filing for the foreseeable future.<sup>52</sup>

22. We conclude that the record supports requiring electronic filing for all services that are licensed by auction. This approach is consistent with our prior decision in the *Part 1 Third Report and Order* to require electronic filing for FCC Form 175 applications filed prior to auction and for FCC Form 601 applications filed after the auction by winning bidders.<sup>53</sup> Our decision today will expand mandatory electronic filing to include other types of applications in auctionable wireless services, including transfer and assignment applications, renewals, license modifications, waiver requests, and notifications. We note that mandatory electronic filing will apply to licensees in services subject to auction even if the particular license was not acquired by auction, e.g., cellular and paging licensees who obtained their licenses by lottery will be required to file license-related applications and notifications electronically when these mandatory filing requirements take effect. We also require mandatory electronic filing of common carrier services which are not subject to auction because they operate on shared spectrum (e.g., CMRS licenses operating on shared 929 MHz paging channels or Business Radio frequencies below 800 MHz). We believe that common carriers generally have the resources and technical capacity to support electronic filing.

23. While we conclude that mandatory electronic filing should be implemented to the extent discussed above, we will adopt a longer transition period than was proposed in the *ULS Notice*. Since the adoption of the *Notice*, development of ULS has proceeded quickly, and the deployment that has occurred so far has demonstrated the ease and efficiency of electronic filing in ULS. Nevertheless, the new rules, forms, and procedures adopted in this order will not go into effect until late 1998, and full implementation of the system is still a number of months away for some services. We agree with commenters that electronic filing will ultimately be more successful if a reasonable transition period is provided for applicants and licensees to use ULS voluntarily before we implement mandatory electronic filing.

24. Therefore, we will not impose the mandatory filing requirements adopted in this order for services that are subject to licensing by auction and for common carrier services subject to auction until (1) July 1, 1999, or (2) six months after application processing in ULS begins for that service, whichever is later. Previously, we have announced the commencement of use of ULS in a particular

---

<sup>51</sup> API Comments at 6 (six months after the final rules to implement ULS are published in the Federal Register); BAM Comments at 7 (120 days after the Commission issues a public notice stating that the necessary upgrades and other changes to ULS have been made).

<sup>52</sup> Cochran Comments at 3; Consolidated Comments at 1; Leef Comments at 1; NSMA Comments at 2-3; PRSG Comments at 2-3; REACT at 3; Silver Comments at 1; TIA Comments at 8.

<sup>53</sup> *Part 1 Third Report and Order*, 13 FCC Rcd. at 409-12, ¶¶ 57-62.

service by public notice.<sup>54</sup> The Wireless Bureau will continue to release service-specific public notices announcing the relevant commencement date for the processing of applications in ULS. This transition period will provide a reasonable time for wireless services applicants and licensees to make the transition to electronic filing.

25. In taking this action, we are not disturbing our prior decision in the *Part 1 Third Report and Order* to require electronic filing as of January 1, 1999 of FCC Form 175s filed prior to an auction and FCC Form 601s filed by winning bidders.<sup>55</sup> Electronic filing has been successfully used in the 800 MHz SMR auction and the LMDS auction. The latter auction was conducted after the adoption of the *Part 1 Third Report and Order*. In light of this experience, we see no reason to adjust our timetable with respect to mandatory electronic filing for auction-related short-form and long-form applications.

#### **b. Exempt Wireless Services**

26. Commenters also urge the Commission to exempt certain services or classes of users from mandatory electronic filing. These commenters argue that mandatory electronic filing would impose an undue burden on persons and entities who have limited resources or technical expertise, or who lack access to the necessary computer hardware and software. APCO, for example, contends that many public safety agencies do not have the ability to connect with the FCC via modem.<sup>56</sup> SBT argues that mandatory filing would disproportionately impact small businesses, minorities, and others who do not have and cannot afford access to computer technology.<sup>57</sup> ARRL contends that mandatory electronic filing would stand as a barrier to access for many Amateur licensees.<sup>58</sup> GMRS licensees and licensee groups contend that mandating electronic filing would stifle their service.<sup>59</sup> We are aware that certain, limited impediments that might make it difficult for all licensees and applicants to communicate with the Commission electronically. For example, some persons still use party lines that may be inadequate to transmit the signals from modern telecommunications devices like modems. Accordingly, we conclude that the record broadly supports moving to mandatory electronic filing for certain wireless services, but that electronic filing should remain optional in other services for the time being.

---

<sup>54</sup> See, e.g., *Public Notice*, Wireless Telecommunications Bureau Announces New Procedures for Filing Part 22 Paging Applications in Universal Licensing System (ULS) Starting June 1, 1998, DA 98-989 (rel. May 22, 1998).

<sup>55</sup> *Part 1 Third Report and Order*, 13 FCC Rcd. at 409-12, ¶¶ 57- 62.

<sup>56</sup> APCO Comments at 3-4.

<sup>57</sup> SBT Comments at 19-20.

<sup>58</sup> ARRL Comments at 17-18.

<sup>59</sup> PRSG Comments at 2-3; Silver Comments at 1.

27. For the time being, we will not extend mandatory electronic filing requirements to services that are not subject to licensing by auction. We agree with commenters who noted that in many of these services, licensees consist primarily of individuals, small businesses, or public agencies that may lack resources to convert quickly to electronic filing. Therefore, manual filing will continue to be an option for applicants and licensees in the following categories: (1) the Part 90 Private Land Mobile Radio services for shared spectrum,<sup>60</sup> spectrum in the public safety pool below 746 MHz, and spectrum in the public safety allocation above 746 MHz (however, Commission-certified frequency coordinators must file electronically; *see* the following paragraph); (2) the Part 97 Amateur Radio Service (however, Volunteer Examination Coordinators must file electronically; *see* the following paragraph); (3) the Part 95 General Mobile Radio Service and Personal Radio Service (excluding 218-219 MHz Service licenses); (4) the Part 80 Maritime Services (excluding the VHF 156-162 MHz Public Coast Stations); (5) the Part 87 Aviation Services; (6) Part 13 Commercial Radio Operators; and (7) Part 101 licensees who are also members of any of the foregoing classes. We note, however, that this decision could be subject to future modification. As computer and modem equipment becomes less costly and more available, we anticipate that electronic filing will become feasible for most if not all wireless applicants and licensees. We will review this issue in the future and may extend mandatory electronic filing to any wireless service where we find that electronic filing is both operationally feasible and cost-effective for licensees and applicants in the service. Adoption of mandatory electronic filing requirements for such services will not require further notice and comment,<sup>61</sup> but we will provide at least six months public notice before such a requirement will take effect.

28. We also note that in a number of the above services, wireless applications must be coordinated prior to being filed with the Commission, and are often filed by the frequency coordinator on the applicant's behalf. We conclude that where wireless services applications are filed by frequency coordinators or other Commission-certified entities such as Amateur Radio volunteer examiner-coordinators (VECs), such applications must be filed electronically. This requirement was proposed by several commenters, including some coordinators.<sup>62</sup> Requiring frequency coordinators and VECs to file electronically will not impose a hardship on these entities, because they have the incentive and the resources to develop electronic filing capability as a service to their customers. Indeed, many of the frequency coordinators for private land mobile services already have electronic filing capability, and the Wireless Bureau has been working extensively with the frequency coordinators to convert their electronic filing protocols for use in ULS. Electronic filing by

---

<sup>60</sup> ULS will be programmed to recognize entities filing under radio service codes RS, IG and YG as exempt from mandatory electronic filing.

<sup>61</sup> Although we have sought comment on this issue in this proceeding, we note that mandating electronic filing is a procedural rule change that is not subject to notice and comment requirements. *See* 5 U.S.C. § 552(b)(3)(a).

<sup>62</sup> APCO Comments at 3-4; Motorola Comments at 2; W5YI Group Comments at 10; ITA Reply Comments at 3.

coordinators will also provide an alternative for wireless services applicants and licensees who are reluctant to file electronically themselves, and will increase the Commission's processing efficiency because a large percentage of applications will be filed by frequency coordinators.

### c. Computer Facilities

29. Winstar supports our proposal to maintain computer facilities to allow members of the public to file forms and pleadings electronically because supplying these facilities will allow applicants without computer access to make use of ULS.<sup>63</sup> Additionally, Winstar advocates that the Commission maintain public computer facilities to allow ULS to be accessed for the purpose of conducting license and application searches.<sup>64</sup> On the other hand, W5YI argues that public computer facilities would go unused due to the wide availability of independent filing services.<sup>65</sup> W5YI asserts that privatization of government functions conserves the federal budget, and transfers the cost of the service to those who reap the benefits.<sup>66</sup> We believe that, pursuant to section 309(j)(3)(B) of the Act, we have an obligation to facilitate access to ULS for members of the public that lack computer access or have other technological problems that hinder access to ULS.<sup>67</sup> We will provide computer terminals in our Public Reference Room. Users of the Commission's public computer facilities will be permitted to view ULS publicly available information or file wireless services applications.

30. We also are committed to making electronic filing and other electronic applications of ULS accessible to persons with disabilities to the fullest extent possible. Although we did not receive specific comments on this issue, we note that ULS is subject to the program accessibility requirements of section 1.850 of the Commission's rules.<sup>68</sup> In addition, since the adoption of the *ULS Notice*, Congress has revised the requirements for access by persons with disabilities to federal information technology programs in the Workforce Improvement Act of 1998.<sup>69</sup> Section 508 of the Act provides that persons with disabilities and non-disabled persons must have comparable access and ability to use electronic technology and information, and federal agencies must take steps to ensure such comparable access for persons with disabilities unless an undue burden would be imposed. If an undue burden

---

<sup>63</sup> Winstar Comments at 7.

<sup>64</sup> Winstar Comments at 7.

<sup>65</sup> W5YI Comments at 12.

<sup>66</sup> W5YI Comments at 12.

<sup>67</sup> See 47 U.S.C. § 309(j)(3)(B). We note that other technological difficulties may arise but ULS is a flexible enough to adapt to the needs of the system's users.

<sup>68</sup> 47 CFR § 1.850

<sup>69</sup> Workforce Improvement Act of 1998, P.L. No. 105-220, 112 Stat. 936 (Aug. 7, 1998).

would be imposed, the agency must provide an alternative means of access that allows persons with disabilities to access and use the information.

31. In comparison to our current licensing systems, we anticipate that ULS will provide greater access to the Commission's application and licensing databases for persons with disabilities. Most fundamentally, ULS benefits many persons with disabilities because it enhances the ability of the public to file applications and access licensing data remotely. In addition, as we pointed out in the *ULS Notice*, ULS has some specific features that will make it easier for persons with particular disabilities to use the electronic filing and public access functions.<sup>70</sup> For example, the ULS technical support hotline will have text telephone capabilities (TTY) for persons with hearing or speech disabilities, and ULS will allow individuals who are blind or who have low vision to determine the status of pending license applications through a touch tone phone using Interactive Voice Response (IVR) technology.

32. While it is our goal to maximize access to ULS for persons with disabilities, we recognize that in some instances, it may be difficult for persons with some disabilities to use the electronic access components of the system as currently configured. In particular, the accessibility of ULS forms and certain types of electronic files raises complex technical issues. We will continue to work on these issues and fully expect that with advances in technology, we will be able to enhance the accessibility of ULS for persons with disabilities. In the interim, we will provide accommodations to individuals with disabilities who are unable to fully use ULS on a case-by-case basis.

### 3. Copy and Microfiche Requirements

33. Background. In 1985, the Commission required that cellular applicants in the top-90 and above markets file initial cellular applications on microfiche.<sup>71</sup> Subsequently, the Commission expanded its use of microfiche. The Commission adopted an order in 1988 requiring that all non-cellular and non-initial cellular Mobile Services Division applications be submitted on microfiche.<sup>72</sup> The Commission stated its belief that the use of microfiche would enable the Commission to serve the public in a more efficient, secure, and expeditious manner and would result in more efficient use of Commission space.<sup>73</sup>

---

<sup>70</sup> *ULS Notice* at 9676, ¶ 6.

<sup>71</sup> Amendment of the Commission's Rules to Allow the Selection from Among Mutually Exclusive Competing Cellular Applications Using Random Selection or Lotteries Instead of Comparative Hearings, *Memorandum Opinion and Order on Reconsideration*, 101 FCC2d 577, 604, ¶ 50 (1985).

<sup>72</sup> Amendment of Part 22 of the Commission's Rules to Revise Certain Filing Procedures for Mobile Services Division Applications and to Eliminate Form 430, CC Docket No. 88-161, *Report and Order*, 3 F.C.C.R. 6684 (1988).

<sup>73</sup> *Id.*



34. In the *ULS Notice*, we proposed to amend the Commission's rules so that applicants or licensees that file applications electronically would not be required to provide paper copies, diskettes, or microfiche.<sup>74</sup> We tentatively concluded that these requirements are unnecessary under ULS because all information will be available on-line to interested parties.<sup>75</sup> In addition, we stated that data filed on paper will be entered or scanned, as necessary, to allow access to it in the same fashion as electronically filed information.<sup>76</sup> We sought comment on our proposal, and on whether it would impose a significant burden on paper filers to require them to file a diskette containing an electronic copy of all attachments and exhibits.<sup>77</sup>

35. Discussion. AASHTO supports our proposal to enter or scan manually filed data so that it will be available in the same manner as electronically-filed information.<sup>78</sup> To the extent that paper filing will be permitted under the Commission's rules, we will enter or scan data filed on paper as necessary to make it available in ULS in the same fashion as electronically filed information. In light of our decision to enter or scan manually filed data, we will no longer require the submission of microfiche by applicants or licensees, whether filing manually or electronically. We required the submission of microfiche to enable us to permanently store application records without the necessity of storing bulky paper files. The ULS system makes this requirement obsolete because all applications will be stored electronically.

36. AT&T Wireless, BAM, and Nextel support our proposal to eliminate the filing of supplemental paper copies or diskettes for electronic filers.<sup>79</sup> They agree that such requirements would be unnecessary under ULS.<sup>80</sup> We conclude that the filing of paper copies or diskettes is unnecessary when filing electronically because all information will be available to interested parties on-line. We therefore adopt our proposal to eliminate the requirement that electronic filers submit paper copies or diskettes.<sup>81</sup>

---

<sup>74</sup> *ULS Notice* at 9684, ¶ 25.

<sup>75</sup> *Id.*

<sup>76</sup> *Id.* at 9684, ¶ 25.

<sup>77</sup> *Id.*

<sup>78</sup> AASHTO Comments at 4.

<sup>79</sup> AT&T Wireless Comments at 8; BAM Comments at 8; Nextel Comments at 4.

<sup>80</sup> AT&T Wireless Comments at 8; BAM Comments at 8; Nextel Comments at 4.

<sup>81</sup> See Appendix G, *infra*, proposed § 1.913.

37. BAM and Nextel support a requirement that paper applications be accompanied by a diskette containing the complete application and any exhibits.<sup>82</sup> Nextel states that requiring paper filers to submit a diskette would not impose a significant burden, and that the requirement would likely ease the administrative burden on the Commission.<sup>83</sup> While we encourage the submission of a diskette when filing a paper application, we find that our decision to enter or scan data makes such a requirement unnecessary.

#### 4. Electronic Filing of Pleadings Associated with Applications

38. Background. Section 1.49 of the Commission's rules requires that pleadings and documents filed in any Commission proceeding be filed on paper.<sup>84</sup> In the *ULS Notice*, we proposed modifying our Part 1 rules to allow electronic filing in ULS of pleadings associated with wireless applications, including petitions to deny, petitions for reconsideration, applications for review, motions for extension of time, and opposition and reply pleadings related to such filings. Since the adoption of the *ULS Notice*, we modified the Commission's rules to allow electronic filing of comments in all rulemaking proceedings.<sup>85</sup>

39. We anticipated that our proposal to allow electronic filing of pleadings in ULS would allow the system to quickly and easily associate pleadings with applications and make such pleadings readily available to the public efficiently. Initially, we determined that parties filing pleadings electronically should continue to serve paper copies on all interested parties.<sup>86</sup> We also sought comment on whether to allow electronic filing of other WTB pleadings that were not associated with a particular application or a docketed proceeding (e.g. requests to stay filing deadlines).<sup>87</sup> Finally, we sought comment on whether to require parties filing paper pleadings to submit a copy of the pleading on diskette.<sup>88</sup>

---

<sup>82</sup> BAM Comments at 8; Nextel Comments at 4.

<sup>83</sup> Nextel Comments at 4.

<sup>84</sup> See 47 C.F.R. § 1.49 (1997); *ULS Notice* at 9684, ¶ 26.

<sup>85</sup> In the Matter of Electronic Filing of Documents in Rulemaking Proceedings, GN Docket No. 97-113, *Report and Order*, 13 FCC Rcd. 11322 (1998) (*ECFS R&O*).

<sup>86</sup> *ULS Notice* at 9684, ¶ 87.

<sup>87</sup> *Id.*

<sup>88</sup> *Id.*

40. Discussion. Virtually all commenters agree that we should permit electronic filing of pleadings associated with applications.<sup>89</sup> Motorola observes that electronic filing of pleadings is consistent with our goal of "making all licensing information available to interested parties and the public [because] electronic filing of pleadings would make it convenient for interested parties and the public to download all of the comments in a given proceeding."<sup>90</sup> AAR and Nextel believe electronic filing of pleadings associated with applications will result in speedier, less costly filings and timely public access.<sup>91</sup> BAM notes immediate and full access to pleadings is critical given that responsive pleadings are time sensitive and current service rules do not require formal service for all informal objections or comments on specific applications.<sup>92</sup> Only one commenter, FIT, argues that the need for electronic filing is not compelling because these pleadings relate to specific applications, and are normally of interest only to the parties involved and paper copies can be distributed easily to interested parties and Commission personnel.<sup>93</sup>

41. We agree with the majority of commenters that we should encourage electronic filing in ULS of pleadings associated with applications. Electronic filing of pleadings will reduce parties' filing and research costs, make it easier for parties to find and review filed pleadings, and will allow the public greater access to our proceedings. Implementing electronic filing of pleadings in ULS is also consistent with our recent decision establishing the Electronic Comment Filing System (ECFS) for electronic submission of comments in rulemaking proceedings.<sup>94</sup> In both instances, we are fulfilling our commitment to use new information technologies to provide access to our processes and to serve the public.

42. Although we believe it is in the public interest to allow electronic filing of pleadings associated with applications, we must consider a number of issues raised by the commenters that may affect the ability of the parties to obtain electronically filed pleadings. The commenters asserted that lack of access to equipment and software, validity of electronic signatures, proper service of copies of pleadings, and filing of diskette copies of the pleadings could affect the ability of a party to file pleadings associated with applications.

---

<sup>89</sup> AAR Comments at 4; AASHTO Comments at 4; ADT Comments at 4; AAA Comments at 4-5; AICC Comments at 4-5; BAM Comments at 9; FCBA Comments at 24; Nextel Comments at 4; Radiofone Comments at 4; FIT Comments at 4.

<sup>90</sup> Motorola Comments at 3.

<sup>91</sup> AAR Comments at 4; Nextel Comments at 4.

<sup>92</sup> BAM Comments at 8.

<sup>93</sup> FIT Comments at 10.

<sup>94</sup> ECFS R&O, *passim*.

43. First, while supporting electronic filing of pleadings, FCBA cautions that we should consider the interests of parties who have standing to file pleadings but may lack the correct computers and appropriate software.<sup>95</sup> We agree, and emphasize that electronic filing of pleadings in ULS is optional, not mandatory. However, it is also important to note that, as in the case of ECFS,<sup>96</sup> we have designed ULS to accept filings generated in most of the commonly used electronic document formats, including Microsoft Word, WordPerfect, Adobe Acrobat, and ASCII text, as well as Microsoft Excel for spreadsheets. For viewing and printing, ULS will automatically convert these files into Adobe Acrobat Portable Document Format (PDF) so that users can access the formatted files even if they do not have the word processor used to create the document.<sup>97</sup> Over time, as users' needs change and technology advances, we will add additional file formats if technically feasible.<sup>98</sup>

44. Second, other commenters express concern that they may lack access to scanning equipment needed to make legible digital copies of paper documents.<sup>99</sup> We will allow parties who file pleadings electronically to file a paper copy of exhibits and other attachments that cannot be converted to electronic form. The electronic filer should submit the paper filing on the same day as the electronic filing and reference the paper filing in attachments to the pleading.

45. Third, a few commenters question whether electronic filing is consistent with our signature requirements for pleadings or suitable for filing documents that are signed under penalty of perjury.<sup>100</sup> As we discussed in the *ECFS R&O*, our signature requirements do not pose an obstacle to electronic filing of pleadings.<sup>101</sup> The Commission's rules already provide for electronic signatures on applications,<sup>102</sup> and we similarly amend our pleading rules to allow electronic signatures on pleadings.<sup>103</sup>

---

<sup>95</sup> FCBA Comments at 24.

<sup>96</sup> *ECFS R&O* at 11332-37, ¶¶ 22-33.

<sup>97</sup> Paragraph numbering makes it easier for readers to cite specific passages. For that reason, we encourage electronic filers to number their paragraphs. However, we will not require paragraph numbering and will not consider the failure to include paragraph numbers a fatal defect.

<sup>98</sup> Electronically filed documents must be self-contained. We will not allow hyperlinks to sites on the Internet to be included in electronically filed documents.

<sup>99</sup> ADT Comments at 4; AAA Comments at 4-5; AICC Comments at 4-5; Radiofone Comments at 4.

<sup>100</sup> ADT Comments at 4; AAA Comments at 4-5; AICC Comments at 4-5; Radiofone Comments at 4.

<sup>101</sup> *ECFS R&O* at 11327, ¶ 10.

<sup>102</sup> See 47 C.F.R. §§ 1.743(e) and 1.913(e).

<sup>103</sup> See Appendix F, § 1.45.

46. Fourth, with respect to service of electronically filed pleadings, most commenters agree with our proposal to require filers to serve paper copies on any interested parties.<sup>104</sup> As in the *ECFS R&O*, however, we will allow electronic service where the party to be served consents to electronic service in advance.<sup>105</sup> We are exploring adding a field in ULS to allow parties to check whether they will accept electronic service. In the meantime, parties should indicate their willingness to accept electronic filing in their pleadings. Additionally, we believe that when a party has agreed to electronic service of a document, the three-day mailing rule for computation of time purposes is inappropriate. As we decided in the *ECFS R&O*, when parties agree to electronic service, service will be considered the same as facsimile service.<sup>106</sup>

47. Finally, some commenters believe we should allow paper-filed pleadings but require the submission of a diskette copy of the pleading, perhaps containing files in several word processing formats as well as in ASCII format.<sup>107</sup> As in the case of paper filed applications, we conclude that it is better at this point to encourage, rather than require, parties filing paper pleadings to include a diskette.<sup>108</sup>

## 5. Letter Requests

48. Background. Currently, in some wireless services, the Commission's rules permit letter requests instead of formal applications for certain actions.<sup>109</sup> These rules result in thousands of letter requests annually that are not in a suitable format for entry into database fields.<sup>110</sup> Letter requests, which cannot be entered into ULS, require separate processing tracks, rather than the uniform licensing process we seek to establish here. Under ULS, Form 601 is the designated form for filing applications, modifications, renewals, amendments, extensions, cancellations, requests for special temporary authority, and name and address changes for all wireless services, except Maritime, Aircraft, Amateur, Restricted and Commercial Operator, and General Mobile Radio Services. The Form 605 will be used in the named services to file new applications, modifications, amendments, renewals, cancellations, withdrawals, or requests for duplicate copies of licenses. We did not propose to amend

---

<sup>104</sup> AAR Comments at 4; Nextel Comments at 4.

<sup>105</sup> *ECFS R&O* at 11336-37, ¶ 32.

<sup>106</sup> *ECFS R&O* at 11337, ¶ 33; *see*, 47 C.F.R. 1.4(h).

<sup>107</sup> AASHTO Comments at 4; BAM Comments at 9; Nextel Comments at 4.

<sup>108</sup> *See* Section III.A.2, *supra*.

<sup>109</sup> *ULS Notice* at 9686, ¶ 29.

<sup>110</sup> *Id.* at 9685, ¶ 28.

the fee schedule in the *ULS Notice*, so that matters heretofore filed by letter request and not subject to a fee would continue not to require a fee under our universal filing system.

49. In the *ULS Notice*, we requested comments on whether requiring the filing of ULS forms for wireless licenses or applications rather than continuing to accept and process letter requests serves the public interest.<sup>111</sup> Additionally, we invited comments concerning whether letter filings for applications, modifications, renewals, amendments, extensions, cancellations, special temporary authorizations, and name and address changes, except for the Special Situations set forth in section 308(a) of the Communications Act, should be eliminated.<sup>112</sup>

50. Discussion. Replacement of letter requests with forms received support from commenters. For example, the FCBA ". . . applauds the Commission's proposal to streamline and simplify the application process and the forms used in connection with wireless authorizations. . . ." <sup>113</sup> Nextel agrees that letter requests should be eliminated and replaced by forms.<sup>114</sup> We conclude that using form filing, in certain circumstances, instead of letter requests will facilitate implementation of ULS, reduce applicant and licensee burdens, increase efficiency and better serve the public interest. Form 601 shall be used to file applications, modifications, renewals, amendments, extensions, cancellations, special temporary authorizations, and name and address changes. Where there is a need for Commission action regarding license application which cannot be addressed by Forms 601, 603 or 605, letter requests may continue to be submitted to the Commission for further resolution.

51. Another reservation concerned the use of forms for special temporary authorizations (STAs) because commenters feared FCC staff would not be alerted to the fact that the applicant is making an STA filing that needed immediate attention.<sup>115</sup> We recognize the need for prompt identification and resolution of STA requests. Typically, where an immediate STA is required because of an emergency or natural disaster, the Commission will accept requests by telephone or fax, and

---

<sup>111</sup> *Id.* at 9686, ¶ 29.

<sup>112</sup> *Id.* at 9686, ¶ 29. The special situations set forth in section 308(a) of the Communications Act of 1934, as amended, pertain to: 1) cases of emergency involving danger to life or property; 2) cases arising during a national emergency; or, 3) cases of emergency where the Commission finds that it would not be feasible to follow normal licensing procedures.

<sup>113</sup> FCBA Comments at 3.

<sup>114</sup> Nextel Comments at 4-5.

<sup>115</sup> EEC Comments at 8-9; GTE Comments at 11-13; Rinker at 8-9 (express a need for explicit notification on the forms for STAs and other emergency filings).

such requests can be granted orally.<sup>116</sup> In these circumstances, the rules require that an application be submitted as soon as possible after the initial request.<sup>117</sup> Under the rules we adopt in this proceeding, the procedures for requesting an emergency STA by telephone or fax remain unchanged. The subsequent application will now be submitted on Form 601 or Form 605 with an exhibit to provide an explanation of the emergency circumstances. For instance, a small paging operator, who needs an emergency STA, will be able to call the Commission and speak with a knowledgeable employee who can approve the STA while on the telephone. This applicant would subsequently submit Form 601 or Form 605 and an exhibit explaining the emergency. In circumstances where applicants or licensees submit requests for STAs using only the Forms 601 or 605, they can be easily identified by the staff for expedited processing; Forms 601 and 605 ask all applicants or licensees to identify if the request is for an STA. Moreover, applicants or licensees continue to be able to consult with the staff about the status of an STA request by telephone or in person, as is now the practice.<sup>118</sup>

52. Comments by SBC Communications, Inc. and Nextel Communications, Inc. expressed opposition to form filing if new fees would be assessed.<sup>119</sup> Nextel qualified its support of forms instead of letter requests when it noted, ". . . Provided no filing fee is imposed, use of forms for such requests under ULS should be less burdensome for the filer and should enable the Commission to improve its speed in processing such minor requests . . ."<sup>120</sup> SBC suggests that letter requests should remain an option if form filing would trigger filing fees for an otherwise non-feeable event.<sup>121</sup> We did not propose to amend the fee schedule in the *ULS Notice*; therefore, matters heretofore filed by letter request and not subject to a fee will continue to be free from any fee under ULS. Additionally, we will provide a link to the Commission's homepage for the public to examine our fee filing schedule.

---

<sup>116</sup> See 47 U.S.C. § 308. The special situations set forth in section 308(a) of the Communications Act of 1934, as amended, pertain to: 1) cases of emergency involving danger to life or property; 2) cases arising during a national emergency; or, 3) cases of emergency where the Commission finds that it would not be feasible to follow normal licensing procedures.

<sup>117</sup> See former 47 C.F.R. § 1.925, now 47 C.F.R. § 1.931.

<sup>118</sup> We emphasize that the Commission's rules do not contemplate routine grants of STAs. Although we continue to receive requests for STAs in a broad number of circumstances, we will limit the grant of STAs to the situations described above.

<sup>119</sup> SBC Comments at 16; Nextel Comments at 5. The comments for both parties stipulate their support for form filing upon clarification that new fees will not triggered by using the forms.

<sup>120</sup> Nextel Comments at 5.

<sup>121</sup> SBC Comments at 15 - 16.

53. FCBA anticipates a negative effect on small business licensees if letter requests are replaced with forms.<sup>122</sup> Because manual filing would continue to be acceptable, the only "new" factor when converting to forms is accessing the forms. The forms would be available through the FCC website, by a toll-free telephone call, toll-free TTY call, and by fax-on-demand service. The easy accessibility of the forms, we believe, will facilitate this less burdensome method of making requests to the Commission. Once parties have obtained one copy of Form 601, they may simply make as many copies of the form as they need. This is an added benefit of combining most application purposes on one form and should virtually eliminate any inconvenience to parties once they have obtained a copy of Form 601. Because forms quickly identify a purpose, we believe that such requests will be more accurately and promptly processed. This benefit is three-fold; it helps Commission staff perform their duties more efficiently and facilitates a more prompt response to the applicant, which makes information more readily available to the public. In order to have a universal licensing system, we must require standardized data fields and have access to the correct and complete data to enter into those fields. Letter requests simply do not provide information in a format that is suitable for ULS. We have taken this action to simplify the process for licensees, reduce time-consuming, resource-intensive review by FCC staff to determine the purpose of STAs and letter requests, and increase the public's access to information.

54. Furthermore, FCBA opposes mandatory electronic filing of letter requests and suggests that each applicant would use forms voluntarily if using forms benefits its organization.<sup>123</sup> We are requiring that a form be used rather than a letter because of the overall benefit to the public which ULS will produce. In contrast to letter requests, requests filed on standardized forms are more quickly and easily processed, are less likely to be misrouted or lost, and are more likely to contain all of the necessary information for the staff to analyze the request, resulting in fewer delays. We will provide a six month implementation period that allows licensees time to prepare to access, review and use the forms. The six month implementation period will begin following the effective date of this order. As mentioned earlier, easy access makes form use convenient for all licensees, large and small.

## **B. Standardization of Practices and Procedures for WTB Applications and Authorizations**

### **1. Consolidation of Procedural Rules in Part 1**

55. Background. In the *ULS Notice*, we proposed to consolidate all wireless services procedural rules into Part 1.<sup>124</sup> Until now our practice has been to adopt service-specific rules for processing applications in each particular service. As a result, the public must familiarize itself with

---

<sup>122</sup> FCBA Comments at 24, "...we do not think [electronically filed forms] should be made mandatory, as that would deny licensees, particularly small licensees, the necessary flexibility to conduct their businesses. . . ."

<sup>123</sup> FCBA Comments at 9.

<sup>124</sup> *ULS Notice* at 9687, ¶ 31.



procedural rules for each service prior to filing an application. This biennial review and the implementation of ULS provide a unique opportunity for us to consolidate the wireless services procedural rules under Part 1. We proposed to unify these disparate service rules, and sought comment on eliminating outdated or unnecessary procedural rules and conforming inconsistencies in the Commission's rules where feasible.<sup>125</sup> However, we also recognized that certain service-specific rules must be retained to further technical, operational or policy considerations for that service. We sought comment on which of our proposed rules may be unnecessary or inconsistent, and whether retaining certain service-specific rules was warranted.<sup>126</sup>

56. Discussion. We adopt our consolidation proposals set forth in the *ULS Notice* and will streamline our wireless services procedural rules under Part 1, with the exception of those service-specific rules that require retention. Only one commenter, CenturyTel, opposes this proposal, contending that consolidating the procedural rules for all wireless services would increase the regulatory burden on private wireless licensees.<sup>127</sup> We conclude that CenturyTel's concerns are misplaced. By consolidating our procedural rules in Part 1, we improve the consistency of the Commission's rules across wireless services and provide a single point of reference for applicants, licensees, and the public seeking information regarding our licensing procedures. This consolidation will reduce confusion among applicants or licensees, increase the probability that filings will be done correctly, accelerate the application process, and speed wireless service to the public.

57. Commenters make a wide variety of specific suggestions for modifying particular procedural rules in Part 1. We have adopted many of these suggestions, which we discuss in greater detail in the following sections. In addition, some commenters propose that we consolidate additional service-specific rules into Part 1. SBC, for example, identifies eleven rules currently in Parts 22, 24 and 101 that it recommends be moved to Part 1.<sup>128</sup> SBC also suggests that developmental authorizations and incidental communication services also be addressed in Part 24 to create regulatory parity.<sup>129</sup> Because we believe that these proposals are beyond the scope of the proceeding, we will consider them when we undertake further streamlining and consolidation of these rules in subsequent proceedings. Likewise, the Wireless Bureau has recently released a public notice seeking comment on

---

<sup>125</sup> *Id.* at 9687, ¶ 33.

<sup>126</sup> *Id.* at 9686, ¶¶ 30-33.

<sup>127</sup> CenturyTel Comments at 9. CenturyTel interprets our consolidation proposal as bringing private licensees within the scope of ownership reporting requirements that currently do not apply to them. As discussed in Section III.B.3, *infra*, we have imposed no new ownership reporting requirements on private licensees.

<sup>128</sup> SBC Comments at 5-6.

<sup>129</sup> *See* 47 C.F.R. § 22.401 and 47 C.F.R. § 22.323.

PCIA's letter to the Commission proposing that wireless regulations be further streamlined.<sup>130</sup> To the extent they are not addressed herein, we will address PCIA's proposals in further proceedings in this docket and other dockets as appropriate.

## 2. Standardization of Rules Regarding Major and Minor Amendments

### a. Consolidated Rule

58. Background The implementation of ULS provides a unique opportunity to replace our service-specific rules with a single set of uniform standards for defining major and minor amendments and modifications in all wireless services. In the *ULS Notice*, we therefore proposed to adopt a single rule in Part 1 for purposes of defining whether an amendment to a wireless application or a request for a wireless license modification is a major or minor change.<sup>131</sup> We proposed that these major and minor categories should uniformly govern the filing date of applications in all wireless services. As stated in the *ULS Notice*, the distinction between major and minor application filings has significant procedural consequences in the application process, because a major amendment to an application causes the application to be considered newly filed, while a minor amendment generally has no impact on the filed date.<sup>132</sup> We did not propose revising the types of applications which require public notice or frequency coordination.<sup>133</sup>

59. In proposing a single consolidated rule, however, we noted that some differentiation between wireless services remains necessary. First, we noted that where wireless services are licensed on a geographic area basis, there are far fewer types of potential modifications than where licensing is site-specific, because a geographic licensee can make technical modifications to its system without modifying its license, provided it complies with basic operational and technical rules. Where the license is site-specific, by contrast, technical changes to the licensed facility (e.g., a change of coordinates, antenna height, or power) require the Commission to modify the license. Second, we noted that among site-specific services, some differentiation is required in defining major and minor changes due to the differing technical parameters governing site-based mobile and fixed services. Within our proposed consolidated rule, therefore, we proposed specific classifications of major and minor changes based on these different classes of licenses.<sup>134</sup>

---

<sup>130</sup> *Public Notice*, Wireless Bureau Seeks Comment on July 31, 1998 Letter From Personal Communications Industry Association Proposing Streamlining of Wireless Regulations, DA 98-1687 (rel. August 21, 1998).

<sup>131</sup> *ULS Notice* at 9688, ¶ 35.

<sup>132</sup> *Id.* at 9688, ¶ 34. 47 U.S.C. § 309(b) requires a thirty-day public notice period before a newly filed application may be granted, with certain exceptions to this rule being provided in § 309(c).

<sup>133</sup> *Id.*

<sup>134</sup> *Id.* at 9689-90, ¶¶ 37-40.

60. Discussion. Commenters generally support our proposal to consolidate the Commission's rules regarding major and minor modifications.<sup>135</sup> However, AirTouch and FCBA caution that we should not overlook genuine differences between the wireless services in this regard, and express concern that our consolidation not result in the imposition of new filing requirements on licensees and applicants.<sup>136</sup> Several commenters also express concern that the proposed Part 1 rule could result in some changes that have been traditionally classified as minor being reclassified as major changes.<sup>137</sup> These commenters oppose any such reclassification and seek clarification of our tentative conclusions and proposed consolidated rule. As FCBA notes, this could have significant consequences because major and minor filings follow very different procedural paths in the application process.<sup>138</sup>

61. We conclude that a single rule in Part 1 that defines categories of major and minor changes for all wireless services is consistent with our goals in this proceeding. We agree with commenters, however, that some modification and clarification of the rule is appropriate. By creating a consolidated rule, it is not our intent to change the substance of our existing definitions of major and minor changes, or to impose new filing requirements on licensees and applicants. Instead, our purpose is to adopt a consistent standard for all wireless services, eliminate unnecessary or redundant rules, and retain service-specific rules where only such rules are necessary because of the unique characteristics of the wireless service. We therefore modify our proposed rule in certain respects and offer the following clarifications.

#### **b. Major Changes for All Wireless Services**

62. Background. In the *ULS Notice*, we tentatively concluded that the following changes should be considered major changes for all wireless services whether licensed geographically or on a site-specific basis: any substantial change in ownership or control; any addition or change in frequency, excluding removing a frequency; any request for partitioning or disaggregation; any modification or amendment requiring an environmental assessment; any request requiring frequency coordination (non-CMRS<sup>139</sup> private land mobile only); or any modification or amendment requiring notification to the Federal Aviation Administration as defined in 47 C.F.R. Part 17 Subpart B.

---

<sup>135</sup> AirTouch Comments at 6; AT&T Wireless Comments at 8; BAM Comments at 9-10; Nextel Comments at 5.

<sup>136</sup> AirTouch Comments at 6; FCBA Comments at 25; FCBA Reply Comments at 16.

<sup>137</sup> FCBA Comments at 27; B&B Comments at 4; EEC Comments at 3 (changes to site location previously considered minor could be reclassified as major). We address these comments in greater detail below.

<sup>138</sup> FCBA Comments at 18; *see* note 111, *supra*.

<sup>139</sup> Commercial mobile radio service (CMRS) is defined as a mobile service that is provided for profit and makes interconnected service available (A) to the public, or (B) to such classes of eligible users as be effectively available to a substantial portion of the public. 47 U.S.C. § 332(d).

63. Discussion. We adopt our tentative conclusions and define certain actions as major changes for all wireless services, regardless of whether the service is licensed geographically or on a site-specific basis. We also clarify our consolidated rule to maintain consistency with our current service-specific rules for major and minor changes. These actions include initial and renewal applications, non-*pro forma* transfers and assignments (include partitioning and disaggregation requests), applications that have significant environmental effect, applications requiring frequency coordination, and applications requesting an additional frequency or a frequency block that is not currently licensed to the applicant. With respect to this last category, we note that some commenters read our proposed rule as requiring geographic licensees to file a major modification application every time they make internal system changes (*e.g.*, frequency changes, adding or moving an internal site, changing transmitter power) within their licensing area.<sup>140</sup> This outcome was not our intent in the *ULS Notice*. We agree with these commenters that in geographically licensed services, internal site and frequency changes within the licensing area and on spectrum covered by the license do not require Commission approval or notification except in very limited circumstances (*e.g.*, a site that requires approval under NEPA). Similarly, in most site-based mobile services (*e.g.*, paging, SMR), licensees may make changes to internal sites without Commission notice or approval provided that they do not expand the service area or interference contour of the system as a whole. We have modified the language of the final rule to avoid potential confusion on this issue.<sup>141</sup>

64. Some commenters also expressed concern regarding our proposal to classify as major any application or amendment that requires notification to the FAA under Part 17 of the Commission's rules.<sup>142</sup> They point out that licensees must often obtain FAA clearance for internal sites in their systems, but contend that this requirement should not require the filing of a major modification application with the Commission. We agree. The purpose of FAA registration and notification is to maintain safety in air navigation. These purposes are accomplished by filing FAA Form 7460-1 with the FAA and obtaining clearance for the facility in question. However, not all actions that require FAA clearance have licensing implications for the Commission. In the case of an internal site that does not otherwise require Commission notification or approval, the fact that FAA clearance is required does not give rise to such a requirement. Therefore, so long as the licensee complies with the FAA's requirements, there is no need for the licensee to file a modification application or notification with the Commission. Accordingly, we have deleted this element of our proposed rule. Tower owners continue to be responsible for notifying the FAA and registering any FAA-approved towers with the Commission by using FCC Form 854.

---

<sup>140</sup> AirTouch Comments at 8; SBC Comments at 10; BellSouth Comments at 11.

<sup>141</sup> See Appendix G, *infra*, § 1.929.

<sup>142</sup> BAM Comments at 9; FCBA Comments at 25.

65. In the *ULS Notice*, we stated that any request requiring frequency coordination would be considered a major modification, but limited this provision to non-CMRS private land mobile services.<sup>143</sup> AMTA seeks clarification of this proposal, noting that under Part 90 of the Commission's rules, certain frequencies that are subject to frequency coordination requirements may be licensed to both CMRS and PMRS systems.<sup>144</sup> As AMTA suggests, we will delete the exclusion of CMRS licensees from this provision. Most frequencies that are subject to frequency coordination are not available to CMRS providers. However, there are some instances in which CMRS providers may operate on coordinated frequencies and, therefore, must comply with coordination requirements.<sup>145</sup> We see no reason to treat an application that requires coordination as major in one instance and minor in another instance based on the regulatory classification of the applicant.

66. Motorola requests that we limit our proposed definitions for major modifications so that the definitions will not apply to shared frequencies. Motorola contends that this limitation will ensure that approval of applications for shared frequencies is not unnecessarily delayed by use of procedures for major filings that only have relevance to licensing on an exclusive basis.<sup>146</sup> We agree that classifying an application as major may have different procedural consequences depending on whether the license is for shared or exclusive spectrum. However, we do not agree that our major modification definitions should not apply to shared frequencies. There are numerous instances in which an application could significantly affect other licensees on a shared frequency, and should therefore be considered major. We will therefore apply our major change rule to both exclusive and shared frequencies as proposed.

67. A number of commenters expressed concern regarding our proposed rule with respect to changes of coordinates and increases in antenna height or power level for wireless services licensed on a site-specific basis.<sup>147</sup> Commenters also sought clarification whether our rule would require site-based licensees to file modification applications for changes to internal sites.<sup>148</sup> As noted above, we have modified the language in our rule to make clear that a change in coordinates or an increase in antenna height or power level for a site-specific license is not a major modification if it does not affect the composite interference contour or defined service area of the system. However, because we use different technical criteria to define these parameters in particular services, we have determined that some service-specific elements of our existing rules should be retained in the consolidated rule. We

---

<sup>143</sup> *ULS Notice* at 9689, ¶ 38.

<sup>144</sup> AMTA Comments at 5.

<sup>145</sup> For example, both PMRS and CMRS providers may operate on shared paging channels in the 929 MHz band, and on shared Business Radio channels; *see also*, 47 C.F.R. § 90.175 for a detailed description of frequency coordination requirements including a list of those frequencies that require coordination.

<sup>146</sup> Motorola Comments at 4-5.

<sup>147</sup> FCBA Comments at 27; B&B Comments at 4; EEC Comments at 3.

<sup>148</sup> Airtouch Comments at 6-7; BellSouth Comments at 13-14.

have also retained certain other service-specific criteria that were inadvertently deleted from our proposed rule. For example, our current rules regulating the use of fixed transmitters under Parts 22 and 90 were omitted from proposed section 1.929 but are now incorporated in our consolidated rule.

**c. Fixed Microwave Services**

68. Background. Regarding stations licensed to provide exclusively fixed point-to-point, multipoint-to-point, or point-to-multipoint, communications on a site-specific basis, we proposed additional actions which we would consider a major change. Specifically, we proposed the following actions in the *ULS Notice*: any change in transmit antenna location by more than 5 seconds in latitude or longitude (*e.g.*, a 5 second change in either latitude or longitude would be minor); any increase in frequency tolerance (Fixed Microwave only); any increase in bandwidth; any change in emission type; any increase in EIRP greater than 3 dB; any increase in EIRP greater than 1.5 dB (DEMS only); any increase in transmit antenna height (above mean sea level) more than 3 meters; any increase in transmit antenna beamwidth; any change in transmit antenna polarization (fixed microwave only); any change in transmit antenna azimuth greater than 1 degree; any change in latitude or longitude that requires special aeronautical study; or any change which together with all minor modifications or amendments since the last major modification or amendment produces a cumulative effect greater than any of the above major criteria.<sup>149</sup>

69. Discussion. With respect to fixed point-to-point, point-to-multipoint, and multipoint-to-multipoint services licensed on a site-specific basis, we adopt additional criteria for distinguishing major and minor changes that are based on the distinctive technical characteristics of these wireless services. We also adopt our proposal to treat multiple minor modifications as major if the cumulative effect of these modifications would be a major change to the system. We note that some commenters expressed concern that the proposed rule was too imprecise for applicants and licensees to comprehend easily, and we have endeavored to address these concerns with the rule we adopt today.<sup>150</sup> We conclude that the rule is consistent with our existing policies for licensing microwave services. Therefore, we will require microwave licensees filing minor modifications to certify on Form 601 that the minor modifications do not give rise to a cumulative major modification.

70. We proposed to combine the two categories of minor filings in Part 101 into one category that we would not place on public notice.<sup>151</sup> CellNet agrees with the NSMA opposition to the proposed elimination of public notices for actions taken on fixed microwave applications. CellNet states that it uses the public notices to track the progress of applications and correct any errors that

---

<sup>149</sup> *ULS Notice* at 9689, ¶ 38.

<sup>150</sup> SBC Comments at 11; *see* § 1.929, Appendix G, *infra*.

<sup>151</sup> *ULS Notice* at 9690, ¶ 40.

occur, and that public notices help frequency coordinators ensure the accuracy of their databases.<sup>152</sup> We agree with CellNet and NSMA that the release of public notices by fixed microwave licensees should continue, because it allows frequency coordinators to ensure the accuracy of their databases.

**d. Minor Changes**

71. Background. We proposed to allow licensees to implement all minor changes, as defined in the consolidated rule, without prior Commission approval.<sup>153</sup> Instead, licensees would be required only to electronically notify the Commission within thirty days of implementing the change.<sup>154</sup> We noted the possibility, however, that an applicant or licensee could submit multiple amendments or modifications each of which would be individually considered minor but which would cumulatively constitute a major change. We proposed to treat such cumulative changes as major, and sought comment on how to apply this standard to applicants and licensees.<sup>155</sup>

72. Discussion. As proposed, we will define as minor changes all amendments to applications and license modifications that are not specifically defined in our rule as major. These minor changes include but are not limited to: (1) any *pro forma* transfer or assignment; (2) any name change not involving a change in ownership or control of the license; (3) changes to administrative information, *e.g.*, address, telephone number, or contact person; or (4) conversion of multiple site-specific licenses into a single wide-area license, where there is no change in the licensee's composite interference contour or service area.<sup>156</sup> We also adopt our proposal to allow licensees to make most minor modifications to their licenses without prior Commission approval, provided they notify the Commission within thirty days after implementing the change. We clarify that prior approval continues to be required, however, for *pro forma* assignments and transfers that are not subject to the Commission's forbearance policy,<sup>157</sup> and for conversion of multiple site-specific licenses into a single wide-area license.

73. We also clarify that the notification requirement for minor changes only applies to changes to the licensing or technical information contained on the license or that may be the subject of specific notification requirements in the Commission's rules. In general, minor system changes that do not affect licensing information (*e.g.*, internal sites in geographically licensed systems or internal sites

---

<sup>152</sup> NSMA Comments at 4; CellNet Reply Comments at 2.

<sup>153</sup> *ULS Notice* at 9691, ¶ 41.

<sup>154</sup> *Id.*

<sup>155</sup> *Id.* at 9690-91, ¶ 41.

<sup>156</sup> *See* 47 C.F.R. § 1.929.

<sup>157</sup> *See* Discussion at Section III.B.8, *infra*.

within the composite interference contour or service area) require no notification to the Commission, and we will not collect such data in ULS.<sup>158</sup>

### 3. Submission of Ownership Information

74. Background. We currently have various service-specific requirements for wireless applicants and licensees to provide ownership information to confirm that these licensees are in compliance with ownership restrictions imposed by the Communications Act as well as certain Commission rules. In the *ULS Notice*, we proposed to adopt a consolidated rule governing the submission of ownership information by wireless applicants and licensees, and to create a ULS form for collection of such information. We noted that in the *Part 1 Third Report and Order*, the Commission had adopted a uniform set of ownership reporting requirements in section 1.2112 of the rules for applicants and licensees in services subject to auction.<sup>159</sup> We proposed to use the new ULS Form 602 to collect this information, which would enable licensees in services subject to our competitive bidding rules to provide ownership information for all of their licenses on a single form. In accordance with section 1.2112, applicants or licensees would then be required to update the form only as necessary when filing an additional license application or an application for license assignment or transfer of control.<sup>160</sup>

75. To further the streamlining objectives of both ULS and the *Part 1* proceeding, we also proposed to eliminate all duplicative or inconsistent ownership reporting requirements in our service-specific rules associated with wireless services subject to our competitive bidding requirements.<sup>161</sup> For example, we noted that section 22.108 of the Commission's rules requires Part 22 applicants to report all persons or entities who hold a five percent or greater ownership interest in the applicant, while section 1.2112 requires reporting only of parties with a ten percent or greater interest. Accordingly, we proposed to delete section 22.108 in order to remove this inconsistency and carry out the intent of the *Part 1 Third Report and Order* and to conform our reporting requirements for such services. In so doing, however, we noted that we were not precluding the possibility of requiring certain applicants or licensees to provide more specific information where necessary (e.g., to verify eligibility for small business status in an auction).<sup>162</sup>

---

<sup>158</sup> See 47 C.F.R. § 1.929.

<sup>159</sup> *Part 1 Third Report and Order*, 13 FCC Rcd. 374 (1997).

<sup>160</sup> *ULS Notice* at 9692, ¶ 45.

<sup>161</sup> *Id.* at 9692, ¶ 46.

<sup>162</sup> *Id.* at 9692-9693, ¶ 46.



76. Finally, we sought comment on whether to use the ULS system to collect ownership information from licensees and applicants in wireless services for which our competitive bidding rules do not apply.<sup>163</sup> Although we did not propose to collect ownership information in these services, we did propose to require applicants and licensees in these services to disclose real-party in interest information and certify that it is not a representative of a foreign government, as is currently required for all microwave applicants or licensees in sections 101.7(a) and 101.19(a)(1).<sup>164</sup> We also sought comment on whether we should expand the current ownership reporting requirements for applicants and licensees in these services. For example, we asked commenters to address whether commercial entities holding private wireless licenses, i.e., railroads or utilities, should be required to submit ownership information for all of their licenses regardless of whether the service was subject to our competitive bidding rules. We tentatively concluded that licenses held by governmental entities should not be subject to any ownership reporting requirements. We also tentatively concluded that due to the personal nature of the Amateur Radio Service, General Mobile Radio Services and Commercial Radio Operators, extension of ownership reporting requirements to these services was unnecessary. We sought comment on these tentative conclusions.<sup>165</sup>

77. Discussion. As proposed, we will require applicants and licensees in wireless auctionable services, subject to section 1.2112, to file or update Form 602 in connection with any initial license application, renewal application, or application for assignment or transfer. This decision, which we codify in new section 1.919(e), merely implements the information collection requirements of section 1.2112(a) of the Commission's rules as adopted in the *Part 1 Third Report and Order*.<sup>166</sup> These requirements apply to all applicants or licensees in wireless services subject to our competitive bidding rules which are defined in section 309 of the Act, as amended by the 1997 Budget Act. We note that this requirement includes all licensees in such services, regardless of whether the particular license in question was originally acquired by auction, except the services listed as exempt in paragraph 24, *supra*. For example, because all common carrier licenses are subject to auction under section 309(j) of the Act where mutual exclusivity exists, we treat them as subject to the reporting requirements of Part 1 even though some common carrier licensees obtained their licenses before we had auction authority or can obtain licenses without going to auction because they do not face mutually exclusive applications. Thus, common carrier licensees who acquired their licenses by lottery or by other means besides auction are subject to these ownership reporting requirements when they apply for assignment, transfer, or renewal of a license.

78. We emphasize that Form 602 is specific to the applicant or licensee rather than the particular application. Thus, an applicant for multiple licenses in an auction is required to file only

---

<sup>163</sup> *Id.* at 9693, ¶ 48.

<sup>164</sup> *Id.* at 9693, ¶ 47.

<sup>165</sup> *Id.* at 9693, ¶¶ 47-48.

<sup>166</sup> *See* 47 C.F.R. § 1.2112.

one Form 602. Moreover, once the applicant or licensee files the form for the first time, it has no need to file the form with subsequent applications, regardless of service, so long as the ownership information on the previous form remains current.<sup>167</sup> Instead, ULS will associate all future applications filed by the same applicant with its Form 602 already on file. Moreover, if the Form 602 requires updating when a subsequent application is filed, the applicant need not resubmit the entire form but can simply access the portions of the form that require updating and submit the updated information electronically. ULS will then replace the existing information with the updated information. These streamlined requirements made possible by ULS are broadly supported by commenters.<sup>168</sup>

79. We also will not extend Form 602 filing obligations beyond those services that are subject to our competitive bidding rules, except for common carrier licensees operating on spectrum that is not subject to auctions (e.g., shared spectrum). Numerous commenters interpreted our proposed section 1.919 as requiring applicants and licensees in private, non-auctioned services to file Form 602. In fact, while we did seek comment on whether ownership reporting requirements should be applied to these services, we did not propose an expansion of these requirements beyond existing rules. As commenters note, existing rules do not require applicants or licensees in these services to report detailed ownership information.<sup>169</sup> Instead, an applicant must typically identify the real party in interest to the application (if different from the applicant), and certify that it is not a foreign government or a representative of a foreign government. Because these questions are contained on Form 601, we agree that there is no need for filing a separate Form 602 by applicants or licensees in these services.

80. We also emphasize that Form 602 need only be filed or updated when the applicant is filing a license application (either an initial application or a renewal application) or when the license is the subject of an assignment or transfer of control. Some commenters incorrectly interpreted the *ULS Notice* as proposing that licensees be required to update Form 602 every time there is a minor change in the licensee's ownership or management, e.g., when a non-controlling investor changes or a new director is elected. In fact, it was not our intent to require applicants or licensees to update their ownership information when such minor changes occur. This submission is not required by section 1.2112, nor do we impose such a requirement here. We also decline to impose a requirement that Form 602 be updated annually, as was suggested by FCBA.<sup>170</sup> Although such a requirement might improve the accuracy of ownership information on file with the Commission, we have concluded that

---

<sup>167</sup> See 47 C.F.R. § 1.65.

<sup>168</sup> BellSouth Comments at 14-15 (supporting the use of one form for multiple licenses); Nextel Comments at 5 (favoring a consolidated Form 602 to simplify reporting requirements).

<sup>169</sup> API Comments at 8; BellSouth Comments at 15; CenturyTel Comments at 9-10; Motorola Comments at 10; Ameritech Reply Comments at 6-7; ITA Reply Comments at 3-4; PCIA Comments at 12; SBT Reply Comments at 14.

<sup>170</sup> FCBA Comments at 18.

it is sufficient to require updates only in connection with significant licensing events. We decline to revisit that decision in this proceeding. However, we note that licensees may voluntarily update their Form 602 information at any time, whether or not the update is required.

81. A number of commenters object to the level of detail about ownership that we are requiring on Form 602. AT&T, BAM, and FCBA, for example, argue that our proposed requirement to identify direct and indirect owners with at least a ten-percent interest in the licensee is excessive and burdensome, because in most instances, a ten-percent owner does not control the licensee.<sup>171</sup> However, the elements of Form 602 to which these commenters object simply track the ownership reporting requirements that we adopted in the *Part 1* proceeding.<sup>172</sup> Thus, to the extent that commenters object to these reporting requirements, their arguments are beyond the scope of this rulemaking.<sup>173</sup> Moreover, we note that in the case of PCS and Part 22 licensees, the *Part 1 Third Report and Order* actually narrowed the scope of applicable ownership reporting requirements, which previously required reporting of all interestholders down to the five-percent level.<sup>174</sup> In furtherance of the streamlining goals of the *Part 1 Third Report and Order*, we also eliminate the more stringent service-specific reporting requirements of sections 22.108 and 24.813, which are inconsistent with section 1.2112.

82. After review of the comments, we also conclude that there is no basis in the record for expanding ownership reporting requirements designed for auctioned services to non-auctioned services. We have revised proposed section 1.919 to remove any possible ambiguity on this issue. As commenters uniformly pointed out, these operations do not affect the competitive balance in the marketplace.<sup>175</sup> Moreover, we will not extend ownership reporting requirements to entities, such as railroads or utilities, that hold only private wireless licenses in non-auctioned services. Due to the fact that these operations are for internal communications, ownership information for the purpose of monitoring the competitive marketplace is not necessary.

---

<sup>171</sup> AT&T Wireless Comments at 4-5; BAM Comments at 12; FCBA Comments at 28-29.

<sup>172</sup> *Part 1 Third Report and Order* at 419-420, ¶¶ 76-77.

<sup>173</sup> Some commenters object to our proposal to collect TIN information from attributable owners identified on Form 602. We address this argument in Section III.B.10, *infra*. Other commenters urge us to reconsider or forbear from implementing our section 1.2112 reporting requirements. *See, e.g.*, FCBA Reply Comments at 21. (Commission should use its section 11 authority to eliminate section 1.2112 requirements). We will incorporate these comments into the record of the Part 1 proceeding for further review and disposition. Should we change any of the reporting requirements in Part 1, such changes will be incorporated into subsequent versions of Form 602.

<sup>174</sup> *Part 1 Third Report and Order* at 418, ¶ 75.

<sup>175</sup> API Comments at 8; BellSouth Comments at 15; CenturyTel Comments at 9-10; Motorola Comments at 10; Ameritech Reply Comments at 6-7; ITA Reply Comments at 3-4; PCIA Comments at 12; SBT Reply Comments at 14.

83. While we do not extend ownership reporting requirements to exempt services as discussed *supra*, we will continue to require all applicants and licensees who use Form 601, including those in non-auctioned services, to provide real-party-in-interest information and to certify that they are not representatives of foreign governments. We also clarify the real-party-in-interest definition in the instructions to Form 601, as requested by FCBA,<sup>176</sup> and revise Form 601 to allow identification of multiple real-parties-in-interest where control of the license is shared by more than one person or entity.

#### 4. Frequency Coordination of Amendment and Modification Applications

84. Background. In the *ULS Notice*, we noted that the Commission's rules in Parts 90 and 101 differ with regard to coordination requirements for major technical amendments and modifications; our goal is to make rules as consistent as possible among the wireless services. Section 90.175 of the Commission's rules identifies numerous changes that do not require frequency coordination, including minor technical changes.<sup>177</sup> Section 101.103(d), on the other hand, requires a new coordination statement for minor technical changes.<sup>178</sup> Accordingly, in the *ULS Notice*, we proposed to amend section 101.103 by requiring frequency coordination only for those applicants or licensees filing amendments and modifications that involve changes to technical parameters that are classified as major in accordance with the new unified standards of section 1.929 of the Commission's rules.<sup>179</sup> Thus, licensees making minor changes to technical parameters would only be required to notify the Commission, as well as the entity(ies) with which they normally engage in frequency coordination, of the minor change. In seeking comment on this proposal, we noted that the proposed change to section 101.103 will provide uniformity among the rules for all of the affected services.<sup>180</sup>

85. Discussion. The majority of commenters addressing this issue support the proposed amendment to section 101.103 because it will provide uniformity in the rules and support their consistent application.<sup>181</sup> APCO recommends that the FCC Form 601 Instructions direct applicants to send all applications which contain one or more "major" items or request a new frequency directly to

---

<sup>176</sup> FCBA Comments at 17-18.

<sup>177</sup> See 47 C.F.R. § 90.175.

<sup>178</sup> See 47 C.F.R. § 101.103(d).

<sup>179</sup> *ULS Notice* at 9694, ¶ 50.

<sup>180</sup> *Id.*

<sup>181</sup> API Comments at 14; BAM Comments at 13; Nextel Comments at 6; FIT Comments at 14-15; CellNet Comments at 6; BellSouth Comments at 16; APCO Comments at 2, 5.

the appropriate frequency coordinator.<sup>182</sup> FCBA, while supporting this proposal, urges the Commission to be consistent in defining "major" and "minor" throughout its rules.<sup>183</sup> PCIA recommends that the notification provision specifically requires that the appropriate frequency advisory committee be furnished with an exact copy of the form or document filed with the Commission which indicates the change, in order to facilitate its frequency recommendations.<sup>184</sup>

86. NSMA and Comsearch, on the other hand, both argue that the Commission should not amend the Part 101 procedures to allow notification for minor technical amendments and modifications.<sup>185</sup> NSMA states that the reporting of all changes, whether minor or major, will allow coordinators to maintain accurate databases and enhance their ability to make interference decisions.<sup>186</sup> Comsearch argues that this standard should be maintained separate and apart from the definition of major and minor changes for filing purposes.<sup>187</sup> Comsearch and FCBA believe that differences in Part 90 and Part 101 coordination mechanisms may justify different treatment under the rules.<sup>188</sup> Under Part 101, explains Comsearch, all potentially-affected parties are notified of any changes, no matter how minor, and this procedure has proved very successful in helping to identify and avoid potential interference problems.<sup>189</sup> Along these lines, NSMA contends that should the Commission adopt this proposal, the phrase "entity(ies) with which it normally engages in frequency coordination" should be clarified to indicate that notice of an amendment or modification of coordinates be sent to all parties involved in the original coordination, and not simply the original coordinator.<sup>190</sup> Comsearch responds to other commenters who contend that coordination of minor changes is unnecessary, stating its belief that it is inappropriate to equate application filing requirements (major versus minor) with coordination requirements, because, it argues, "minor" changes can significantly increase the potential for interference.<sup>191</sup> As for claims that coordination of minor changes increases financial burdens,

---

<sup>182</sup> APCO Comments at 5.

<sup>183</sup> FCBA Comments at 37.

<sup>184</sup> PCIA Comments at 12; for the notification provision, *see* 47 C.F.R. § 90.175.

<sup>185</sup> NSMA Comments at 8-9 and Reply Comments at 2; Comsearch Comments at 3-5 and Reply Comments at 1-4.

<sup>186</sup> NSMA Comments at 9.

<sup>187</sup> Comsearch Reply Comments at 1-4.

<sup>188</sup> Comsearch Reply Comments at 2; FCBA Comments at 37-38.

<sup>189</sup> Comsearch Reply Comments at 2.

<sup>190</sup> NSMA Comments at 9.

<sup>191</sup> Comsearch Reply Comments at 3.

Comsearch notes that Part 101 has a "notification only" mechanism that is routinely completed in one day, and, further, rectifying interference conflicts after they have occurred is significantly more expensive and time consuming for all involved parties.<sup>192</sup>

87. We conclude that we will modify section 101.103 as proposed in the *ULS Notice* because our concern was the same as the FCBA's, namely that we need to make the Commission's rules consistent. This modification serves that goal by making Parts 90 and 101 consistent on the issue of when a new coordination is necessary, building on our establishment, in new section 1.929 of the Commission's rules, of "major" and "minor" categories that are as uniform as possible. Because a central component of the criteria in section 1.929 is whether an amendment or modification will materially alter the original engineering and technical information of an application or license, we are confident that only those changes considered major have the potential to impact an original coordination enough to merit a new coordination. In other words, coordinators seldom, if ever, should need to alter substantially frequency and/or site recommendations based on a minor amendment to an application or modification of a license. As a result, we believe that there is insufficient justification to continue to require licensees and applicants to obtain a new coordination analysis for minor amendments and modifications.

88. We are confident that requiring the licensee or applicant to notify the Commission and the entity(ies) with which it normally engages in coordination is sufficient to allow coordinators, and other interested parties, to remain aware of such changes and keep their databases up-to-date. We find it unnecessary to broaden our proposed language to include "all parties involved in the original coordination." Should the licensee notify only the coordinator of a minor change, other "interested" parties can obtain the information from the coordinator. We do not believe that the universe of parties affected by, or interested in, minor changes, as defined in new section 1.929, will be significant.

## **5. Returns and Dismissals of Incomplete or Defective Applications**

89. Background. Our current regulations contain a variety of service-specific rules and procedures for dismissal or return of incomplete or facially defective applications. In the *ULS Notice*, we proposed to unify our filing rules so that all wireless applicants and licensees would be subject to consistent rules regarding dismissals and returns.<sup>193</sup> We noted, however, that in the case of interactively filed electronic applications, ULS would be able to identify and alert the applicant to certain types of application errors in real time, thus enabling the applicant to make immediate corrections before submitting the application. However, in the case of batch-filed electronic applications and manual filed applications, the same errors would not be detected until after the application was filed. We therefore proposed to establish procedures so that batch, interactive, and manual filers would be treated similarly with respect to application errors. In the case of minor

---

<sup>192</sup> Comsearch Reply Comments at 3-4.

<sup>193</sup> *ULS Notice* at 9695, ¶ 53.

defects or missing information, we proposed that an applicant who filed a paper application that was accepted by ULS be notified of the defect and given thirty days to file a corrected application. We also proposed several exceptions to the thirty-day right to refile. First, if the applicant submitted a major amendment, the applicant's ability to refile would depend on whether major amendments were allowed under the circumstances. Second, we proposed that certain defects in an application would result in immediate dismissal. These defects included filing the application without a sufficient fee, filing outside of an applicable filing window, or filing an application without a valid signature. Finally, we proposed to establish procedures for handling and protecting filings in ULS for which the applicant seeks confidential treatment.

90. Discussion. We adopt a consolidated rule in Part 1 governing the filing of incomplete or otherwise defective applications in all wireless services, and we modify the proposal in the *ULS Notice* to further limit the circumstances under which defective applications will be returned for correction. Under the consolidated rule, as under existing rules, the Commission has the discretion to return applications for correction of minor filing errors, but it also has the authority to dismiss any incomplete or defective application without prejudice.<sup>194</sup> Pursuant to this rule, and as proposed in the *ULS Notice*, we will automatically dismiss any application that is defective because the applicant failed to sign the application, failed to pay the required filing fee, or filed outside of the applicable filing window. These defects are fatal to the consideration of the application. This policy ensures equal treatment regardless of the manner in which the application is filed. In the case of an interactive electronic filing, submitting the application with any of these defects would be impossible, because ULS will automatically reject the application as defective on its face. To ensure equivalent treatment of electronically batch-filed or manually filed applications that are unsigned, untimely, or not fee-compliant, such applications will be automatically dismissed by ULS after they are initially entered into the system. Accordingly, we remove those sections of the rules that provided for return and correction of applications with errors."<sup>195</sup>

91. We will also dismiss batch-filed and manually filed applications with other types of defects that are automatically screened by ULS when an application is interactively filed, e.g., missing technical data or technical parameters that are inconsistent with the rules (where no waiver request is filed). In the *ULS Notice*, we proposed that aside from unsigned, untimely, and non-fee-compliant applications, we would return batch-filed and manually filed applications that are entered into the system and subsequently discovered to have errors, even if those errors were of the type that would have prevented the application from being filed interactively because they would have been automatically screened by ULS.<sup>196</sup> On further consideration, we conclude that in some circumstances, this approach could inadvertently cause manual and batch-filers to have an advantage over interactive filers. For example, if we returned the application of a manual filer who omitted necessary technical

---

<sup>194</sup> Appendix G, § 1.934(d).

<sup>195</sup> See former 47 C.F.R. §§ 1.959, 90.141, 90.611 (f), 90.711(a)(5), 101.35(c), 1.962(e), 1.1109(d).

<sup>196</sup> *ULS Notice* at 9695, ¶ 53.

data, the filer would have additional time to obtain the data and amend the application without losing its filing priority based on the initial filing date. However, an applicant who files an electronic application interactively would not have the same opportunity, because the system would identify the defect while the application was being filled out by the applicant. The system would then prompt the applicant to correct the application, and if the necessary information could not be obtained before the filing window closed, the applicant could miss its filing deadline. To avoid this disparity, which might otherwise discourage electronic filing, we will dismiss manual and batch-filed applications with screenable errors of this type after they are initially entered into the system. Such dismissal will be without prejudice to the right of the applicant to refile, provided the relevant application window remains open.

92. While we will generally dismiss defective or incomplete applications, we retain the discretion to return an application for correction if circumstances warrant. In such cases, we will adopt the return procedures proposed in the *ULS Notice*, *i.e.*, the application will be returned to the applicant, and the applicant will have thirty days from the date the notification is sent to file an amended application correcting the defect. Although some commenters supported a longer period to amend, such as sixty or 120 days,<sup>197</sup> we agree with FCBA that thirty days is ample time for an applicant to submit corrections.<sup>198</sup> Moreover, in some instances, we believe it is appropriate to require an applicant to submit an amended application in less than thirty days. Therefore, we provide that applicants may be required to amend in less than thirty days, so long as the return notice clearly specifies the amount of time the applicant has to file the amendment. We also delete those service-specific rules that provided a longer period for applicants to submit corrections.<sup>199</sup>

93. When an application is returned for correction, we will hold the application for the designated period so that a corrected application may be filed. If the applicant files a timely corrected application, it will ordinarily be processed as a minor amendment in accordance with the Commission's rules.<sup>200</sup> Thus, it will have no effect on the initial filing date of the application or the applicant's filing priority. If, however, the amendment made by the applicant is not a simple correction but constitutes a major amendment to the application, it will be governed by the rules and procedures applicable to major amendments, *i.e.*, it will be treated as a new application with a new filing date. Finally, if the applicant fails to submit an amended application within the period specified in the notification, the application will be subject to dismissal for failure to prosecute.<sup>201</sup>

---

<sup>197</sup> Motorola Comments at 6-7.

<sup>198</sup> FCBA Comments at 38.

<sup>199</sup> *See, e.g.*, 47 C.F.R. § 90.141.

<sup>200</sup> *See* 47 C.F.R. § 1.929.

<sup>201</sup> *See* 47 C.F.R. § 1.934(c).



94. Finally, we adopt the proposal set forth in the *ULS Notice* regarding the protection of confidential information filed in ULS, which was supported by the FCBA. The basic elements of that proposal entailed putting the following security measures in place: (1) any attachment designated as confidential will not be accessible from publicly available query utilities; and (2) a special user name and password will be required for Commission employees to view confidential attachments.<sup>202</sup> Should the Commission decide not to grant a request for confidential treatment, the applicant will be so informed so that it may determine whether to maintain the applications as filed, to amend the application by deleting the attachments, or to withdraw the application or filing.<sup>203</sup> The FCBA also urges the Commission to take other measures to protect confidential information against inadvertent or accidental disclosure, such as maintaining it in a secure database or file separate from other application information.<sup>204</sup> We believe that the safeguards we have identified will be sufficient to protect against inadvertent disclosure of confidential information. However, we will continue to explore other safeguards to increase the level of protection afforded to applicants and licensees.

#### 6. Discontinuation of "Reinstatement" Applications

95. Background. Under current rules, licensees in the Commercial Radio Operator Service, PLMRS, Amateur Radio Service, and Fixed Microwave Radio Services, who fail to file timely renewal applications are afforded a thirty-day period following the expiration of their licenses in which to request reinstatement.<sup>205</sup> Although this practice was instituted due to the large number of late-filed applications in these services, we observed in the *ULS Notice* that it is inconsistent with other wireless service licensing rules where reinstatement is not permitted.<sup>206</sup> With the implementation of ULS presenting a unique opportunity to establish regulatory symmetry among all wireless services, the *ULS Notice* proposed to use ULS for automatic license pre-expiration notification to all licenses, explaining that this notification would eliminate the reinstatement period and instead automatically cancel the license following expiration.<sup>207</sup>

---

<sup>202</sup> *ULS Notice* at 9695, ¶ 54.

<sup>203</sup> See Examination of Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission, GC Docket No. 96-55 (rel. Aug. 4, 1998).

<sup>204</sup> FCBA Comments at 20-21.

<sup>205</sup> See 47 C.F.R. §§ 13.13(b), 21.44(b), 24.443(a), 26.325(b), 90.149(a), 97.21(b) and 101.65(b).

<sup>206</sup> *ULS Notice* at 9696, ¶ 55; see, e.g., 47 C.F.R. § 22.145.

<sup>207</sup> *Id.* at 9696, ¶ 56. As we stated in the *ULS Notice*, this proposal does not affect the five year grace period within which holders of Commercial Radio Operator licenses may renew expired licenses without retaking the required examination. See 47 C.F.R. § 13.13(b).

96. Discussion. We will adopt our proposal to eliminate reinstatement procedures in those wireless services that currently allow such applications, and instead use ULS to provide all licensees with pre-expiration notification ninety days prior to the expiration of their licenses.<sup>208</sup> Such notification will be sent by mail to the point of contact listed in the ULS database for each callsign. We conclude that notifying wireless radio licensees of the expiration of their licenses at least ninety days prior to the relevant deadline is reasonable. Our decision to use this reminder letter as a convenience to licensees does not in any way absolve licensees from timely filing their renewal applications. Failure to file for license renewal before the end of the license term will result in automatic cancellation of the license.<sup>209</sup> Our proposal received support from several commenters<sup>210</sup> and is consistent with the purpose of this proceeding of implementing consistent licensing procedures wherever feasible. All licensees are responsible for knowing the terms of their licenses and for filing a timely renewal application if they seek to operate beyond that term.<sup>211</sup> We clarify, however, that our decision to eliminate reinstatement procedures does not affect the renewal process for Commercial Radio Operators Licenses or Amateur licensees. Unlike licensees in other services, Commercial Radio Operators and Amateurs obtain their authorizations by taking and passing an examination. Our current rules provide that Commercial Radio Operators may renew their its authorizations up to five years after expiration and that Amateurs may renew their licenses up to two years after license expiration without having to retake the required examinations.<sup>212</sup> We see no reason to modify these rules, which recognize that a licensee that has previously passed an examination does not need to demonstrate again his or her knowledge of the required material.

97. Among the commenters that urge the Commission to retain reinstatement procedures,<sup>213</sup> the majority are licensees, or are involved with licensees, in services which currently have such mechanisms. Some commenters suggest extending such procedures to other services, such as the

---

<sup>208</sup> Because we are confident that ninety days is more than sufficient time for all licensees to file renewal applications, we reject Motorola's suggestion that we send the renewal notification at least 120 days in advance of license expiration. Motorola Comments at 6-7.

<sup>209</sup> See Appendix G, *infra*, § 1.949.

<sup>210</sup> Nextel Comments at 7; CellNet Comments at 3; AASHTO Comments at 6.

<sup>211</sup> Industrial Communications and Electronics, Inc., Station WNMD402, *Order on Reconsideration*, DA 98-667, at ¶ 13 (rel. April 28, 1998) (Commercial Wireless Division).

<sup>212</sup> See 47 CFR §§ 13.13(b) and 97.21(b).

<sup>213</sup> Winstar Comments at 10-11; AMTA Comments at 5-6; APCO Comments at 4-5; API Comments at 11 and Reply Comments at 12; SBC Comments at 13-14; Bennet Comments at 6-7; FCBA Comments at 39-40; FIT Comments at 15-16; NSMA Comments at 13; PCIA Comments at 9; ADT Comments at 8 and Reply Comments at 4; AICC Comments at 8-9 and Reply Comments at 4; AAA Comments at 8; ITA Reply Comments at 4; Radiophone Reply Comments at 4; Century Comments at 11; PNI Comments at 2; SBT Reply Comments at 7; Ameritech Reply Comments at 8-9.

Commercial Mobile Radio Services (CMRS).<sup>214</sup> Commenters' reasons for supporting reinstatement vary, from arguing its importance to licensees in services subject to filing freezes or relicensing on only a secondary basis,<sup>215</sup> to discussing the potential for many private wireless licensees to file their renewal applications late since use of their authorizations is secondary to their primary business operations.<sup>216</sup> We are not persuaded by arguments that removing these reinstatement procedures will result in too severe a punishment for inadvertent failures to file renewal applications. Elimination of the reinstatement period will benefit all licensees and entities interested in acquiring abandoned spectrum. Our action herein will also facilitate the Commission's ability to efficiently and quickly perform its licensing responsibilities by reducing the amount of late-filed renewal applications and eliminating the processing of reinstatement applications. We believe that eliminating reinstatement applications is appropriate because licensees will have direct notification that their licenses are about to expire and, therefore, the responsibility to file a timely renewal application will lie where it belongs, namely in the hands of the licensee. Finally, we believe that interactive electronic filing will make it easier for all licensees to timely file renewal applications. Further, licensees should be able to obtain the necessary renewal form more easily than ever before as Commission forms are widely available to the public through the FCC world wide web page,<sup>217</sup> via a toll free telephone number,<sup>218</sup> via a toll free TTY number, and through a fax-on-demand service.<sup>219</sup> We will not implement this decision to eliminate reinstatement applications for any wireless service until (1) July 1, 1999, or (2) six months after the commencement of application processing in ULS for that service, whichever is later. This transition period will provide a reasonable time for applicants and licensees to familiarize themselves with this procedure.

98. We note that FCBA argues that these changes will result in an increase, rather than a decrease, in the filing of pleadings and petitions.<sup>220</sup> In response, we clarify that the correct procedure for a licensee that has allowed its license to lapse is to file a new application, and if necessary, a request for special temporary operating authority. We are confident that the ULS notification procedure will prompt licensees to file their renewal applications on time. We also anticipate that ULS will produce staffing efficiencies that will streamline the consideration of any requests for special

---

<sup>214</sup> AMTA Comments at 5-6; Ameritech Reply Comments at 8-9; ADT Reply Comments at 5, n.5; AICC Reply Comments at 5, n.5.

<sup>215</sup> AMTA Comments at 6; Ameritech Reply Comments at 9-10.

<sup>216</sup> API Reply Comments at 12; AAA Comments at 8; ADT Comments at 8 and Reply Comments at 5; AICC Comments at 8-9 and Reply Comments at 5.

<sup>217</sup> See <http://www.fcc.gov/formpage.html>.

<sup>218</sup> 1-800-418-FORM (3676).

<sup>219</sup> Call 1-202-418-0177 from the handset of any fax machine and follow the recorded instructions.

<sup>220</sup> FCBA Comments at 39-40.

temporary authority. We conclude that this action serves the public interest because it will improve the efficiency with which the Commission makes spectrum available for reuse after a license has lapsed. Finally, the ULS notification procedure does not replace the license renewal provisions set forth in the Commission's rules.<sup>221</sup> Accordingly, even if a licensee does not receive a renewal reminder notice, the licensee still must timely file its renewal application. Also, not receiving a renewal reminder notice does not excuse the licensee's failure to seek a timely renewal.

99. We conclude that we will not adopt a separate and distinct procedure for public safety and local government licensees. We agree with APCO that the consequences of the cancellation of a public safety license potentially fall not only on the licensee but on the public which relies on the licensee to protect the safety of life and property.<sup>222</sup> Nonetheless, for the same reasons that other licensees must file their renewal applications on time, so must public safety licensees. Public safety entities are acutely aware of the value of their licenses, and we believe that with the benefit of their own systems for taking responsibility for their licenses, and with the help of the Commission's notification procedures, such entities should be able to file their renewal applications in a timely fashion. We therefore reject APCO's suggestion that we not only retain the reinstatement period, but also send a notification both ninety and thirty days in advance of license expiration.<sup>223</sup> We note that where in fact continued operations are immediately critical to essential safety operations, the public safety entity that has allowed its license authority to lapse is likely to file a request for special temporary authority.<sup>224</sup>

100. Although a license expires automatically on the date specified on the individual license, ULS will not show a license expiration as final until approximately thirty days after the renewal deadline. We note that the purpose of this delay is not so that the licensee may seek reinstatement of the license that has now expired, but to ensure that the Commission does not inadvertently fail to recognize that a timely renewal application has been submitted. After the license expiration the previous licensee may file a new application for use of those frequencies subject to any service specific rules. Once that thirty-day period has elapsed, or the prior holder of the license files a new application for that spectrum, the license will then be available for the Commission to reassign by competitive bidding or other means according to the rules of the particular service.

101. Finally, based on commenters' concerns, we will not adopt our proposal to allow licensees and applicants to decide whether they want to continue to be notified of Commission actions in writing via regular mail or instead be notified of Commission actions concerning applications

---

<sup>221</sup> See Appendix G, *infra*, § 1.949.

<sup>222</sup> APCO Comments at 4-5.

<sup>223</sup> *Id.* at 5.

<sup>224</sup> See 47 U.S.C. § 309(f).

contained in ULS via electronic mail.<sup>225</sup> Applicants and licensees will continue to be notified of official Commission action by regular mail only. Parties should note that pursuant to the the Commission's rules there is only one official point of contact per license.<sup>226</sup> Licensees and applicants should keep all mailing and contact information current. While the Commission is optimistic that a system of electronic communication at some time in the future may offer a substantial increase in efficiency and paper reduction, we are sympathetic to commenters' concerns about the use of an electronic notification process at this time.<sup>227</sup> We note, however, that in this era of tremendous technological advancement, we may revisit this issue at a later time should circumstances so warrant.

## 7. Construction and Coverage Verification

102. Background. In the *ULS Notice*, we recognized that in many wireless services, licensees are subject to construction and, in some instances, coverage requirements, and are subject to automatic license cancellation if these requirements are not met. We noted that different procedures have evolved in different services for verifying whether licensees have in fact met these requirements.<sup>228</sup> In some wireless services subject to construction requirements, the Commission's rules provide that licenses cancel if the licensee fails to notify the Commission that it has met its construction or coverage requirement.<sup>229</sup> In other wireless services, licenses cancel automatically if a licensee fails to construct by its construction deadline.<sup>230</sup> In some, but not all, of the latter services, the Commission staff sends letters to determine compliance and then notifies licensees that their licenses are cancelled when licensees fail to certify compliance or state that they did not meet the construction or coverage requirements. In some services that are licensed by geographic area, licensees may forfeit their license by failing to meet coverage requirements, but no procedures have been established for notifying licensees of approaching deadlines or confirming that these deadlines have been met.<sup>231</sup>

---

<sup>225</sup> *ULS Notice* at 9697, ¶ 58.

<sup>226</sup> *See* 47 C.F.R. § 1.5.

<sup>227</sup> PCIA Comments at 6-7; API Reply Comments at 13-14; BellSouth Comments at 25-26 and Reply Comments at 7; CenturyTel Comments at 6; EEC Comments at 9; ADT Comments at 7; AAA Comments at 7; AICC Comments at 7; Metamora Comments at 9; PAI Comments at 9; Radiophone Comments at 5-6; Rinker Comments at 9.

<sup>228</sup> *ULS Notice* at 9697-98, ¶¶ 59-60.

<sup>229</sup> *See, e.g.*, 47 C.F.R. § 21.44.

<sup>230</sup> *See, e.g.*, 47 C.F.R. §§ 22.142, 90.155, 90.629, 101.63, 101.65.

<sup>231</sup> *See, e.g.*, 47 C.F.R. §§ 24.203, 90.665, 90.833, 95.833.

103. We proposed to establish uniform procedures for using ULS to notify all wireless radio licensees of upcoming construction or coverage deadlines.<sup>232</sup> We thought that such a consolidation would conform the rules for all wireless services licensees so that similarly situated applicants and licensees would be treated equally. In addition, we thought that such an action would lessen the burden on applicants and would ensure that deadlines are met or that the public receives timely notification of terminations.<sup>233</sup> We also proposed requiring notifications filed by wireless services licensees to be filed electronically.<sup>234</sup> In addition, we proposed to require wireless licensees to certify compliance with construction requirements relating to modification applications that involve additional frequencies. Also, we proposed to require fixed microwave licenses awarded on a site-by-site basis to certify compliance with construction requirements for additional or increased service area coverage (e.g., a new station, a change in antenna height or EIRP).<sup>235</sup> We also proposed to amend our microwave rules to require fixed microwave licensees to file a further modification application if the licensee fails to construct a granted modification.<sup>236</sup>

104. Discussion. Commenters generally support our proposal to use ULS to notify wireless licensees in advance of applicable construction or coverage deadlines.<sup>237</sup> Commenters suggest that such notice be given to licensees between sixty to 120 days prior to the relevant deadlines.<sup>238</sup> We conclude that notifying wireless radio licensees of impending construction and coverage deadlines at least ninety days prior to the relevant deadline is reasonable. We will send these notices to the relevant licensees by mail. We emphasize, however, that the notification procedure adopted here is not intended to replace the basic construction and coverage requirements set forth in the Commission's rules. That means that even if a licensee does not receive a reminder letter, it remains obligated to meet its construction and coverage benchmarks and cannot cite the lack of notification as an excuse for non-compliance. The licensee is solely responsible for complying with its construction and coverage requirements.

105. Some commenters oppose our proposal to require all wireless licensees to notify the Commission that they have met their construction or coverage requirements, and to terminate the

---

<sup>232</sup> ULS Notice at 9698, ¶ 60.

<sup>233</sup> *Id.*

<sup>234</sup> *Id.* at 9698, ¶ 61.

<sup>235</sup> *Id.* at 9698, ¶ 62.

<sup>236</sup> *Id.* at 9698-9, ¶ 62.

<sup>237</sup> API Comments at 12; BAM Comments at 13.

<sup>238</sup> API Comments at 12 and Cellnet Comments at 5 (60 days), BAM Comments at 13-14 (90 days) and Motorola Comments at 9 and Bennet and Bennet Comments at 7 (120 days).

license if such notice is not received by the Commission.<sup>239</sup> These commenters express concern that this procedure could result in termination of licenses for facilities that are in fact operational, simply because the licensee failed to provide notice.<sup>240</sup> FCBA also suggests that this procedure could jeopardize a licensee who reports that it has met its construction requirement early and therefore assumes there is no need to respond to a subsequent reminder letter sent by the FCC.<sup>241</sup> Finally, AirTouch and BellSouth note that the Commission recently eliminated the requirement for common carrier microwave licensees to file FCC Form 494A certifying completion of construction, and argue that reinstating a certification requirement is inconsistent with the deregulatory objectives of this proceeding.<sup>242</sup>

106. We agree with FCBA and other commenters that the purpose of our construction notification procedure should be to verify whether licensees have in fact met their construction and coverage obligations, not to terminate licenses for legitimately operating facilities based on a failure to notify by the licensee that could be the result of a mailing error.<sup>243</sup> This policy is reflected in the fact that our proposed rule provides for automatic license termination not based on whether the Commission has received confirmation of construction, but based on actual failure by the licensee to meet its construction or coverage deadline.<sup>244</sup> Nevertheless, if a licensee fails to confirm timely construction, we believe it is reasonable to initiate the license termination process as proposed. First, we are enhancing our procedures by using ULS to send construction reminder notices to licensees in *all* wireless services that have construction performance requirements, which was not possible previously.<sup>245</sup> Second, ULS simplifies the confirmation process for the licensee by allowing for instantaneous electronic filing of the notification. Finally, as proposed in the *ULS Notice*, we provide that when the Commission fails to receive timely confirmation of construction from the licensee, ULS will generate a letter to the licensee and issue a public notice thirty days before the termination becomes final. This period provides a licensee that has timely met its construction or coverage obligations with additional notice and the opportunity to prevent termination of its license by submitting documentation that it has timely constructed. Once that thirty-day period has elapsed,

---

<sup>239</sup> ADT Comments at 7-8; AAA Comments at 7-8; AICC Comments at 8.

<sup>240</sup> ADT Comments at 8; AAA Comments at 8; AICC Comments at 8.

<sup>241</sup> FCBA Comments at 41-42.

<sup>242</sup> AirTouch Comments at 7-8; BellSouth Comments at 16 (both commenters citing *The Part 101 Report and Order*, 11 FCC Rcd. 13449, 13458 n.17 (1996)).

<sup>243</sup> FCBA Comments at 40-41.

<sup>244</sup> *ULS Notice* at 9690, ¶ 25.

<sup>245</sup> A licensee that meets its construction or coverage requirements early need not wait until the deadline to provide notification of construction, but can do so at any time. ULS will process such early notifications and notices will not be sent for these licenses because they have already been confirmed as constructed.

without notification from the licensee, the license will then be available for the Commission to reassign by competitive bidding or other means according to the rules of the particular service.

107. We also conclude that it is reasonable to require microwave licensees to comply with the same construction notification procedures as other wireless licensees, notwithstanding our prior elimination of the Form 494A filing requirement. As noted above, notification in ULS is simpler and faster than filing the old form, which could not be filed electronically. Notification also provides significant benefits for the public, the Commission, and licensees themselves by increasing the accuracy of the ULS database and promoting more efficient spectrum use. On balance, we conclude that these benefits outweigh the small burden on licensees of filing a notification. We will also modify our proposal to require construction notifications to be filed electronically, which elicited the same reservations from commenters as our general electronic filing proposals.<sup>246</sup> Accordingly, only those services that are subject to mandatory electronic filing will be required to file construction notifications electronically. We will not implement this decision on construction notification procedures for any wireless service until (1) July 1, 1999, or (2) six months after the commencement of application processing in ULS for that service, whichever is later. This transition period will provide a reasonable time for applicants and licensees to familiarize themselves with this procedure.<sup>247</sup>

108. Finally, we will require licensees to certify compliance with construction requirements relating to modification applications that involve additional frequencies. Many microwave commenters oppose these proposals out of concern that they would result in a licensee losing its pre-existing authorization if it fails to complete construction of the granted modification.<sup>248</sup> They object to our proposal that in such a situation, the licensee must file a modification application deleting the additional frequencies. Instead, they argue that ULS should automatically return the relevant license to its "pre-modification grant" status.<sup>249</sup> We have reviewed this option, and have determined that programming this logic into ULS would be so complex as to be unworkable. In addition, our original proposal does not put pre-existing licenses in jeopardy as these commenters fear; it merely provides a mechanism in ULS for the licensee to meet its obligation to provide accurate information regarding what it has constructed and what it has not. We also clarify that ULS will not cancel the pre-existing license of a licensee that fails to construct a new site or frequency so long as the modification was a request to add the site or frequency, rather than to replace the original site or frequency. This enables a licensee to test the viability of a new site or operations on a new frequency without losing pre-existing rights if it fails to commence permanent operations on the new site or frequency.

---

<sup>246</sup> See Section III.A.2, *supra*.

<sup>247</sup> *Id.*

<sup>248</sup> BellSouth Comments at 16-17; Cellnet Comments at 5-6; CenturyTel Comments at 12-13.

<sup>249</sup> CenturyTel Comments at 14; ADT Reply Comments at 7.



## 8. Assignments of Authorization and Transfers of Control

109. Background. In the *ULS Notice*, we proposed to consolidate our transfer and assignment rules for all wireless services in Part 1, and to eliminate inconsistencies between the procedures that currently govern CMRS and microwave licenses. First, we proposed to replace the multiple existing forms for transfers and assignments in the various services with two ULS forms, FCC Form 603 for assignment of licenses and FCC Form 604 for transfers of control.<sup>250</sup> Our proposal to use a separate form for each type of transaction rather than a single consolidated form for all assignments and transfers was based on the fact that transfers and assignments do not require identical types of information from the applicant. In addition, the two types of transactions have different processing results: in an assignment transaction, a new license is issued to the assignee, while in a transfer of control, the identity of the licensee generally remains the same. We therefore proposed using two different forms tailored to the two categories of transactions.

110. We also proposed to conform the Commission's rules for all wireless services to require post-transaction notification that a Commission-approved transfer or assignment has been consummated.<sup>251</sup> We acknowledged that the current Part 90 rules for private mobile radio service (PMRS) and the Part 101 rules for microwave services do not require such notification, but noted that problems occur when an assignment or transfer approved by the Commission is entered into the licensing database under this streamlined procedure and is not subsequently consummated.<sup>252</sup> With the advent of ULS, we tentatively concluded that a uniform post-consummation notification process could be established that would be efficient and easy to use for all wireless licensees.<sup>253</sup> Using the electronic filing capabilities of the system, licensees would be able to provide such notification by accessing their previously filed transfer or assignment application and entering updated information regarding its consummation. We therefore proposed to require post-consummation notification under ULS using procedures similar to those currently applicable to CMRS transfers and assignments. We also tentatively concluded that these notification procedures should be reinstated for transfers and assignments of microwave licenses, notwithstanding our prior elimination of the post-consummation notification requirement in the microwave services.<sup>254</sup>

111. Finally, we proposed to apply these same post-consummation procedures to *pro forma* transactions for which we have recently adopted streamlined procedures in response to the FCBA forbearance petition. Thus, in the case of *pro forma* transfers and assignments involving

---

<sup>250</sup> See Appendix G, *infra*, § 1.948(c).

<sup>251</sup> *ULS Notice* at 9700, ¶ 66.

<sup>252</sup> *Id.*

<sup>253</sup> *Id.*

<sup>254</sup> *Id.* at 9700, ¶ 67.

telecommunications carriers, for which prior Commission approval is no longer required, we tentatively concluded that licensees should provide the required post-consummation notification and related information regarding the transaction on Form 603 or 604.<sup>255</sup>

112. Discussion. In general, our proposals for adopting uniform transfer and assignment procedures and forms in ULS were supported by commenters. ADT supports use of ULS for filing and processing of license assignment and transfer of control applications.<sup>256</sup> Nextel supports the proposal to replace the multiple forms currently used for assignments and transfers with Form 603 for assignments and Form 604 for transfers of control.<sup>257</sup> CenturyTel and Radiofone support the use of ULS for the filing and processing of license assignment and transfer of control applications, but urges that such transactional applications be processed separately from facilities applications to expedite processing.<sup>258</sup> FIT, however, comments that while the Commission's proposal to replace some current forms used for transfers and assignments has merit, it should retain Forms 1046 and 703, now used in the private services, because they are easy to use and provide the Commission with all necessary information.<sup>259</sup>

113. We believe that consolidating our assignment/transfer rules and replacing service-specific forms with consolidated forms will provide the public with a consistent set of procedures and filing requirements and will increase the speed and accuracy of the assignment/transfer process. Continuing to use existing service-specific forms for some services, as FIT suggests, would impede these objectives and create public confusion. We also agree that assignments and transfers need to be processed in a quick, efficient manner. The electronic filing and automated processing capabilities of ULS will enable us to meet this requirement. For example, in the case of transfer and assignment applications that must be placed on thirty days public notice under section 310(d) of the Act, ULS has the ability to automatically generate a weekly public notice of applications received during the previous week. Prompt placement of these applications on public notice will facilitate swifter processing, and will ultimately lead to more expeditious grants of assignments and transfers in most cases.

114. Several commenters proposed that we combine Form 603 and 604 into a consolidated transfer/assignment form, rather than using separate forms as proposed in the *ULS Notice*.<sup>260</sup> SBC comments that the proposed forms are largely duplicative, and that with a minimum of revision one

---

<sup>255</sup> *Id.* at 9700, ¶ 68.

<sup>256</sup> ADT Comments at 2; AICC Comments at 2.

<sup>257</sup> Nextel Comments at 8.

<sup>258</sup> CenturyTel Comments at 5, Radiofone Comments at 4.

<sup>259</sup> FIT Comments at 4.

<sup>260</sup> SBC Comments at 4.

form could be used for both transfers of control and assignments of license, as is currently the case with Form 490.<sup>261</sup> SBC says that consolidation of these forms would shorten waiting and approval times and would mitigate the paperwork burden on the carrier as well as the administrative burden on the Commission.<sup>262</sup>

115. After review, we agree with the commenters that the transfer and assignment forms can and should be combined. Although there are some differences in the information requirements for transfers and assignments, as we noted in the *ULS Notice*, we find that there is a sufficient degree of overlap in the questions that must be answered by both types of applicants that the forms can be combined. In addition, to the extent that there are differences in the informational requirements for transfers and assignments, we have designed the revised form (which we designate as Form 603) so that the applicant will only be required to answer the questions pertinent to the type of transaction involved. Thus, in a transfer of control, no new licensee information will be required because the licensee remains the same and a new license is not issued. In an assignment, on the other hand, information regarding the new licensee will be required. Applicants who file Form 603 electrically will only have to complete those fields applicable to the type of transaction indicated. For manual filers, the instructions to the form will explain which questions must be answered based on whether a transfer or assignment is involved.

116. We will make certain other changes to Form 603, some of which have been suggested by commenters. For example, one commenter noted that the proposed form did not contain a schedule for notification of consummation of a transaction, but that such notification was instead provided on a proposed schedule to Form 601.<sup>263</sup> We agree that Form 603 should include a mechanism for filing consummation notifications, and have added a notification schedule to the form for this purpose. We have also modified Form 603 so that it can be used by telecommunications carriers to notify the Commission of *pro forma* assignments and transfers that do not require prior Commission approval under our streamlined forbearance procedures.<sup>264</sup> Telecommunications carriers will be able to file notifications and provide the required licensing information directly into ULS on Form 603 so that ULS can update its licensing records to reflect the *pro forma* transaction.<sup>265</sup>

---

<sup>261</sup> BAM Comments at 4; AT&T Wireless Comments at 6; SBC Comments at 4.

<sup>262</sup> SBC Comments at 5.

<sup>263</sup> FCBA Comments at 33.

<sup>264</sup> See Federal Communications Bar Association's Petition for Forbearance from section 310(d) of the Communications Act Regarding Non-Substantial Assignments of Licenses and Transfers of Control Involving Telecommunications Carriers Licensed by the Wireless Telecommunications Bureau, *Memorandum Opinion and Order*, 13 FCC Rcd. 6293 (1998), in which the Commission adopted streamlined notification procedures for *pro forma* transfers and assignments by telecommunications carriers.

<sup>265</sup> Carriers filing notifications under this procedure will also be required to update Form 602 if they are subject to ownership reporting requirements and the information on Form 602 is not current.

117. We have also updated the instructions on Form 603 regarding indirect alien ownership under section 310(b)(4) of the Act to elicit information regarding whether such ownership is held by aliens from countries making commitments to the WTO Basic Telecommunications Agreement (WTO Agreement).<sup>266</sup> Accordingly, we also revised the questions on Form 603 regarding alien ownership under section 310(b)(4) of the Act to elicit information regarding indirect ownership by aliens from countries making commitments under the WTO Agreement. The revised Form 603 also requires the transferee or assignee to certify that is in compliance with all pertinent cross-ownership, attribution, and spectrum cap rules, or has sought a waiver of such rules. Finally, in accordance with our new ownership reporting requirements for auctioned services, Form 603 will ask assignees/transferees in such services to certify that a current Form 602 is on file or that one is being filed simultaneously with the Form 603.<sup>267</sup>

118. In the *ULS Notice*, we proposed to reinstate the consummation notification requirement for all PMRS licensees and microwave licensees which we had previously eliminated.<sup>268</sup> In the absence of a notification procedure, no efficient mechanism exists for correcting the database under these circumstances. Instead, we have generally required the filing of a second transfer application that reflects the "return" of the license from the putative transferee to the original licensee. AirTouch opposes extending notification procedures to services such as PMRS or microwave that currently do not have them. AirTouch argues that this notification constitutes unnecessary reregulation of these services.<sup>269</sup> The FCBA, AAR, and API support establishing a uniform notification procedure for all wireless services including services such as PMRS and microwave.<sup>270</sup>

119. Our experience with assignments and transfers in those services that do not require post-consummation notification is that confusion and database errors have resulted when an approved transaction is not consummated. Restoring the notification requirement will ensure the integrity of the database and enable the Commission, licensees, and the public to accurately track ownership. Furthermore, licensees will no longer have to refile assignment or transfer applications with the required fee when a transaction has not been consummated. We also disagree with AirTouch that this notification constitutes unnecessary reregulation. The rationale for eliminating the notification

---

<sup>266</sup> See Rules and Policies on Foreign Participation in the U.S. Telecommunications Market, IB Docket No. 97-142, *Report and Order and Order on Reconsideration*, FCC 97-398, 12 FCC Rcd. 23,891, ¶¶ 97-118, 131 (1997).

<sup>267</sup> See Section III.B.3, *supra*.

<sup>268</sup> *ULS Notice* at 9700, ¶ 66; see also, Reorganization and Revision of Parts 1, 2, 21, and 94 of the Rules to Establish a new Part 101 Governing Terrestrial Microwave Fixed Radio Services, WT Docket No. 94-148, *Report and Order*, 11 FCC Rcd. 13449, 13455-56 (1996), *recon. pending (Part 101 Report and Order)*. See also 47 C.F.R. § 90.153.

<sup>269</sup> AirTouch Comments at 6.

<sup>270</sup> FCBA Comments at 32 and Reply Comments at 22, AAR Comments at 10, API Reply Comments at 8.

requirement is no longer applicable under ULS. Licensees may provide notification in ULS almost instantly for electronic filers completing FCC Form 603. Moreover, in the case of *pro forma* transfers and assignments that require no prior Commission approval under our forbearance order, notification will be the only filing that is required.<sup>271</sup> Thus, we find that imposing this requirement will not constitute a significant burden on licensees.

120. While commenters generally expressed support for use of ULS to electronically file transfer and assignment applications, FCBA and API questioned how both parties to a transaction would be able to enter information and electronically sign the form.<sup>272</sup> These commenters express concern that electronic filing could inadvertently enable a party to file a fraudulent assignment or transfer application without the knowledge of the current licensee. They point out that fraudulent applications have not been an issue in the past because transfer and assignment applications were filed manually, enabling both parties to certify their respective sections and sign the application before filing it with the Commission. To address the issue, API proposes that the Commission require a "comparison" electronic filing which could only be made by the assignor using the TIN and related password or through the submission of an original executed paper version of the electronic filing.<sup>273</sup> The FCBA opposes API's proposal, but states that the Commission must address the issue if it intends to allow electronic filing of transfer and assignment applications.<sup>274</sup>

121. We agree with FCBA and API that safeguards are necessary to ensure that both parties to a transfer or assignment application can ensure the accuracy of information on electronically submitted forms. We also agree that neither party should be able to file a transfer or assignment form electronically without the knowledge and consent of the other. Assignment and transfer applications raise unique concerns in this respect because they are two-party in nature and require the signature of both parties to the transaction. We are also aware that as a practical matter, one party (usually the assignee or transferee) often prepares the application for the other party to review and sign. In ULS, we have instituted several safeguards to protect against inaccurate or unauthorized filings. First, ULS will allow the assignee or transferee to access the portions of the application that contain information regarding itself.<sup>275</sup> However, ULS will not allow the assignee or transferee to enter information into the assignor/transferor's section of the application, nor will it allow the assignee/transferee to designate

---

<sup>271</sup> See Federal Communication's Bar Association's Petition for Forbearance from section 310(d) of the Communications Act Regarding Non-Substantial Assignments of Wireless and Transfers of Control Involving Telecommunications Carriers, *Memorandum Opinion and Order*, 13 FCC Rcd. 6293 (1998).

<sup>272</sup> FCBA Comments at 37, API Comments at 4.

<sup>273</sup> API Comments at 4-5.

<sup>274</sup> FCBA Reply Comments at 13.

<sup>275</sup> If the assignee/transferee is not already registered in ULS, it will have to register its TIN and obtain a password in order to use the system.

the call signs that are the subject of the proposed transaction.<sup>276</sup> ULS will also enable each party to sign the application electronically, but will not allow either party access to the signature block of the other party. ULS will safeguard against modifications (by either party) after the application has been signed by either party. Finally, ULS will safeguard against any party making modifications to the application after it has been signed by either party.

122. We believe that the above safeguards will provide both parties with the same comfort and security afforded in the paper filing of transfer and assignment applications, and will ensure compliance with the Commission's rules. In addition, as in the case of other types of applications, ULS will allow assignment and transfer applicants to print preview their applications in draft, so that both parties can review and verify their responses before filing, and without the draft applications being viewable by the Commission staff or the public. Thus, while electronic filing of transfer and assignment applications may require some adjustment by the parties to such transactions, we believe that electronic filing will prove to be easy and efficient. We will issue a public notice describing in greater detail the procedures for using ULS when filing an assignment or transfer application. We also intend to conduct demonstrations for the public and the communications bar.

#### **9. Change to North American Datum 83 Coordinate Data**

123. Background. To perform its licensing role, the Wireless Bureau requires that certain applicants and licensees submit site coordinate data (latitude and longitude) with their applications. Presently, applicants and licensees are required by the Commission's rules to submit coordinate data referenced to the North American Datum of 1927 (NAD27). The more recent North American Datum of 1983 (NAD83) was defined using modern surveying technology and in many cases provides a more accurate method of specifying coordinates. As a result, many applicants and licensees, at their option, provide NAD83 coordinate data with their applications today. On September 1, 1992, we issued a public notice noting the change and stating that we would be converting our databases to NAD83.<sup>277</sup> On September 15, 1992, the Commission's Office of Engineering and Technology held a tutorial on converting from NAD27 to NAD83.<sup>278</sup> However, we allowed applicants and licensees to continue submitting data in NAD27 until the Commission's databases could be converted.

---

<sup>276</sup> Thus, a prospective assignee/transferee cannot unilaterally add a call sign that the assignor/transferor does not intend to include within the transaction.

<sup>277</sup> *Public Notice*, The Federal Communications Commission Continues to Require Applicants to Use Coordinates Based on the North American Datum of 1927, 7 FCC Rcd. 6096 (1992).

<sup>278</sup> "North American Datum Geographical Coordinate System Tutorial," DA 91-1195, 57 FR 41937 (September 14, 1992).

124. On October 15, 1992, the Federal Aviation Administration (FAA) converted all coordinate data associated with the National Airspace System to NAD83.<sup>279</sup> At the same time, it began requiring applicants and licensees notifying the FAA of proposed constructions (over 200 feet above ground or near an airport) to submit data in NAD83. For years, tower owners have been required to submit NAD83 data to the FAA and NAD27 data to the Commission. Because of this inconsistency and the benefits of using the more accurate NAD83 data, we proposed in the *ULS Notice* to require applicants and licensees in all wireless services to submit NAD83 data. We sought comment on this proposal.<sup>280</sup>

125. Discussion. Commenters addressing this issue overwhelmingly support our proposal to transition from NAD27 to NAD83 site data.<sup>281</sup> As the commenters point out, this action unifies FAA and the Commission's requirements for the submission of site data, while taking advantage of the more accurate NAD83 reference datum. Thus, we will adopt a policy implementing NAD83 for all wireless services in a uniform manner. Beginning six months from the effective date of this *Report and Order*, we will require coordinates submitted to the Wireless Bureau regarding sites located in the continental United States, Puerto Rico, the U.S. Virgin Islands, Alaska, Hawaii, Guam, American Samoa, and offshore sites adjacent to these areas (e.g., the Gulf of Mexico) to be expressed in terms of latitude and longitude referenced to NAD83.<sup>282</sup> Sites located in the Northern Mariana Islands, Midway Island, and Wake Island should continue to be referenced to the applicable local datums. This exception for the Pacific insular areas is necessary because NAD83 is not applicable to these areas.

126. Appendix D explains how licensees may use the National Oceanic and Atmospheric Administration, National Geodetic Survey's (NOAA/NGS) "NADCON" software to convert coordinates from NAD27 and other local datums to NAD83.<sup>283</sup> NADCON is available free of charge via the Internet.<sup>284</sup> The NADCON software allows for the conversion of coordinates interactively one at a time, as well as the conversion of entire databases of coordinates by using an input data file. As an added measure of convenience for our licensees, the Wireless Bureau is in the process of providing

---

<sup>279</sup> "Transition From the North American Datum of 1927 (NAD27) to the North American Datum of 1983 (NAD83)," 57 FR 20141 (May 11, 1992).

<sup>280</sup> *ULS Notice* at 9701, ¶ 70.

<sup>281</sup> BellSouth Comments at 19; BAM Comments at 14; CenturyTel Comments at 7; and Nextel Comments at 8.

<sup>282</sup> During the transition period, applicants or licensees may submit coordinates in NAD27 or NAD83 manually using non-ULS forms. Applicants and licensees filing electronically via ULS, however, must submit coordinates in NAD83.

<sup>283</sup> See Appendix D, *infra*.

<sup>284</sup> The NADCON software is available for downloading via the internet at <http://www.fcc.gov/wtb/uls>.

a web browser-based NADCON interface and investigating the possibility of including the NADCON conversion as part of ULS functionality. The Wireless Bureau will announce the release of these conversion tools by future public notices as they become available.

127. When implementing the transition to NAD83, FCBA urges the Commission to deal carefully with the rounding of converted data.<sup>285</sup> We agree with FCBA and have devised a conversion approach that will not result in discrepancies due to rounding errors. Presently, site data is stored in the Wireless Bureau's databases referenced to NAD27 and rounded to the nearest second. The NADCON software will convert NAD27 data and provide results in terms of several decimal places. To avoid further rounding errors, we will convert existing databases using NADCON and store the resulting seconds of latitude and longitude in terms of two decimal places. Coordinates will be viewable online up to one decimal place. We take this opportunity to clarify that we are not requiring applicants or licensees to re-survey sites or conduct initial sites surveys in order to submit data accurate to the first or second decimal place. As in the past, applicants and licensees should determine site coordinates to the accuracy required by the applicable radio service rules and round the seconds of latitude and longitude consistent with the particular method of measurement being used (*e.g.*, 7.5 = map, hand-held GPS receiver, GPS receive with differential corrections).

128. We also agree with suggestions by CenturyTel, Comsearch, and Radiofone to provide a transition period during which applicants and licensees may submit data referenced either to NAD27 or NAD83.<sup>286</sup> We believe, however, that a six-month transition period is more appropriate than the one-year transition suggested by some of the commenters. As a threshold matter, many licensees already submit coordinates on FCC Form 600 referenced to both NAD27 and NAD83. As the commenters point out, the FAA already requires submission of coordinates on FAA Form 7460-1 (notification of FAA for air safety purposes) in NAD83. Thus, structures over 200 feet above ground or located near a commercial use airport are already converted by applicants and licensees in order to meet FAA filing requirements. Further, the NAD83 conversion is not a difficult process. As described above and in Appendix D, the conversion of site data to NAD83 can be achieved by using the NADCON software and can be easily applied on a case by case basis, or to large databases. Prolonging the transition period would only serve to delay implementation of the more accurate datum and the benefits of unifying our requirements with those of the FAA. Applicants and licensees submitting NAD27 coordinates during the six-month transition can only do so manually using non-ULS forms.<sup>287</sup> Consequently, the Commission's staff entering the non-ULS forms and converting from NAD27 to NAD83 may result in processing delays. For this reason, we urge applicants and licensees to convert their licensing records to NAD83 as soon as possible.

---

<sup>285</sup> FCBA Comments at 42.

<sup>286</sup> CenturyTel Comments at 7; Comsearch Comments at 5; and Radiofone Comments at 6.

<sup>287</sup> The ULS forms, as approved by OMB, do not provide for the submission of data in NAD27 and it is not practical to reprogram the ULS and revise the forms for a short, six-month transition period.



129. At the same time the Wireless Bureau is requiring applicants and licensees to convert to NAD83, the Wireless Bureau must convert all site coordinates in each of its databases from NAD27 (or local datums) to NAD83. We disagree with the commenters' recommendation to convert all of the Wireless Bureau's databases at the same time.<sup>288</sup> We have chosen to implement ULS on a service-by-service basis and have already implemented the Paging and Radiotelephone Service and Offshore Radiotelephone Service with others to follow in the coming months. In this connection, we are converting to NAD83 at the same time we are converting each of our databases to ULS. This approach minimizes the number of programming resources necessary for conversion to ULS. Further, because we are providing a six-month transition period, licensees have the option to continue filing in NAD27 until all radio services have been converted to ULS. During the transition period, the Commission will convert data submitted in NAD27 to NAD83.

130. Although the conversion to NAD83 does not involve the physical relocation of any tower sites, there may be instances when the distance between neighboring sites may appear to change when NAD83 is used. Several commenters ask that we grandfather licensees that may appear to be short-spaced as a result of the mathematical conversion, and that the conversion should not initiate finder's preference or license revocation proceedings.<sup>289</sup> Over a small geographic area, the conversion to NAD83 will affect neighboring sites in the same way, so the calculated distances between these sites will effectively remain constant. When sites are separated by large distances, however, site coordinates will be "shifted" by different amounts based on local geography, and thus, the calculated distances between these sites may appear to decrease. This effect will be most prominent in the western United States, Alaska, Hawaii, and the Caribbean. Again, this is not a result of the relocation of tower sites, but rather the more precise determination of site coordinates. We agree with the commenters that, in cases where stations appear to be "short-spaced" under the rules as a result of the conversion, licensees may continue to operate under their existing authorizations indefinitely. This approach minimizes the number of programming resources while permitting the continued operation of existing stations. Further, we clarify that we do not intend to take any form of enforcement action in this regard based solely on the NAD83 conversion.

131. As a final matter, we agree with FCBA that the NAD83 conversion policies developed for our licensing databases should also apply to our Antenna Registration database.<sup>290</sup> Presently, FCC Form 854 "Application for Antenna Structure Registration" permits tower owners to specify site coordinates referenced to NAD27 or NAD83 and stores the data in NAD27. Upon implementation of ULS, we will require tower owners applying for registrations to submit site data in NAD83. This approach provides for the consistent treatment of all applicants and licensees submitting site data to the Wireless Bureau.

---

<sup>288</sup> Nextel Comments at 8; CenturyTel Comments at 7.

<sup>289</sup> PCIA Comments at 11; SBC Comments at 15; API Reply Comments at 9-10; and SBT Reply Comments at 13.

<sup>290</sup> FCBA Comments at 42.

## 10. Use of Taxpayer Identification Numbers

132. Background. In 1996, Congress enacted the Debt Collection Improvement Act (DCIA),<sup>291</sup> as part of an effort to increase the government's effectiveness in collecting debt from private entities. The DCIA requires, *inter alia*, that each federal agency collect the Taxpayer Identification Number (TIN) of any person doing business with that agency. The TIN for an individual is generally that person's Social Security Number, while entities use a Tax Identification Number or Employer Identification Number.<sup>292</sup> This information is shared with the U.S. Department of Treasury, as required by the DCIA.

133. Pursuant to its responsibility under the DCIA, the Commission has already begun to collect TIN information from Commission licensees. We also require auction applicants to provide their TINs with their short-form applications. In the *ULS Notice*, we further proposed to require that all applicants and licensees filing applications in ULS be required to register their TINs as a prerequisite to using the system.<sup>293</sup> We also sought comment on the suitability of the TIN as a unique system identifier for each applicant and licensee in ULS. In addition we proposed steps to prevent unauthorized disclosure or misuse of TIN information. We sought comment on these proposals.

134. Discussion. We received comments regarding a variety of issues relating to the use of TINs in ULS. Some commenters question whether the TIN can serve effectively as a unique system identifier. They note that some governmental and private entities have a single TIN that is used by multiple sub-agencies or subsidiaries which may hold licenses in their own name. Thus, use of the "parent" TIN could generate confusion and processing complications due to several entities using the same number.<sup>294</sup> These commenters propose that we program ULS so that additional numbers or letters could be added to the basic TIN to identify sub-agencies or subsidiaries. We agree that a need for more discrete identification of government agency and large private entity filers exists. We are therefore developing a protocol in ULS that will allow an applicant or licensee to obtain a unique "sub-group" identifying number as an extension of its TIN. Thus, entities with a common TIN belonging to the parent agency or entity will be uniquely identified in ULS by different sub-group identifiers.

135. Some commenters, particularly Amateur radio operators, argue that being required to disclose their TINs raises privacy concerns and assert that collecting TINs is unnecessary to our

---

<sup>291</sup> See the Debt Collection Improvement Act of 1996, PL 104-134, 110 Stat. 1321 (1996) (codified at 31 U.S.C. § 3701).

<sup>292</sup> As used herein "Taxpayer Identification Number" or "TIN" refers to all of these types of numbers.

<sup>293</sup> *ULS Notice* at 9702, ¶ 73

<sup>294</sup> AASHTO Comments at 7.

regulatory goals.<sup>295</sup> Commenters also question whether ULS will contain sufficient security measures to protect against disclosure of TIN information.<sup>296</sup> Conversely, some commenters note that there is no reason to protect the TINs of publicly-held corporations, which must disclose this information in any event for compliance with tax collecting requirements.<sup>297</sup> NSMA is concerned with providing any party outside the Commission with TINs, including frequency coordinators and test examiners.<sup>298</sup>

136. With regard to the general security of TIN information in our database, we have already initiated steps to ensure security in access to ULS. Access to ULS for drafting, filing, or amending applications or pleadings is obtained using a secure wide-area network (WAN) site. Each applicant or licensee's pre-filed draft applications, forms, or pleadings will be protected by two levels of security: the applicant's or licensee's TIN and a unique self-assigned password. TIN information is not available to either the public or Commission staff through ULS. Instead, only a small number of Commission staff will have access to such data in order to effect necessary compliance with the DCIA. For public access purposes, ULS will issue each licensee a "masking" number that identifies it in the publicly available database. The "masking" or public ID number will be used for querying and for other purposes where revelation of the TIN could affect the applicant's or licensee's security concerns.

137. With regard to use of or access to the TIN by frequency coordinators and VECs, we are aware that these entities are not comfortable with the responsibility of maintaining security for their individual clients' TINs. We agree this concern has merit. Accordingly, we are developing the capability for VECs and frequency coordinators to submit applicant information into ULS without having access to the applicant's TIN. Because the coordinators and VECs are Commission-certified and carry out quasi-public responsibilities, we will provide each VEC and frequency coordinator with its own secure code giving it access to the relevant portions of the database. The coordinator will then be able to use its own access code, in combination with the public identification number of the applicant, to electronically file on the applicant's behalf. We emphasize, however, that in order for the coordinator or VEC to file on behalf of an applicant, the applicant must previously have registered its TIN in ULS.

138. Certain commenters question our authority to collect TIN information at all, particularly from applicants and licensees who do not pay fees.<sup>299</sup> The DCIA subjects all those "doing

---

<sup>295</sup> See ARL Comments at 16-17 (contending they are non-feeable service and not subject to DCIA).

<sup>296</sup> ARRL Comments at 16-17; Bennet Comments at 7; FCBA Comments at 15 (proposing applicants and licensees to use user names and passwords in addition to TINs and associated passwords); FIT Comments at 17-18; PCIA Comments at 9; NSMA Comments at 10-11 (suggesting TINs be used for only those owed a fee refund).

<sup>297</sup> Brown & Schwaninger Comments at 10-11.

<sup>298</sup> NSMA Comments at 10.

<sup>299</sup> See ARRL Comments at 16-17; Bennet Comments at 8; FCBA Comments at 30-31.

business" before a Federal agency to provide a TIN as a condition to receiving governmental benefits, regardless of whether fees are collected.<sup>300</sup> The DCIA defines a person "doing business with a Federal Agency" as "an applicant for, or recipient of, a Federal license, permit, right-of-way, grant, or benefit payment administered by the agency. . . ."<sup>301</sup> Thus, the statute makes plain that all applicants and licensees are "doing business with a Federal agency" and thus must provide their TINs. The statute does not distinguish between licensees and applicants who pay fees and those who do not, or otherwise exclude applicants and licensees who do not pay fees from the definition of "doing business" and the accompanying obligation to provide their TINs. Therefore, non-feeable services such as most amateur and other public safety entities are still required to register their TINs with the Commission.

139. Bennet maintains that those "doing business" with the Commission, as defined in the DCIA, does not include minority interest holders.<sup>302</sup> Further, FCBA contends that the DCIA requires only applicants and licensees to provide TINs, and not those entities with a 10 percent or greater interest.<sup>303</sup> FCBA argues that applicants and licensees are the ones enjoying the government benefits of a Commission license, and not attributable interest holders.<sup>304</sup> We disagree with these contentions. One of the overarching purposes behind the DCIA is to improve the cash and debt collection management of the Federal Government.<sup>305</sup> In order to identify debtors, Congress decided to use TINs, a ubiquitous identifier. It is the Commission's responsibility to ensure compliance with the DCIA. In order for the Commission to comply, we must collect TINs from all individuals or entities

---

<sup>300</sup> See 31 U.S.C. § 7701(c)(1).

<sup>301</sup> See 31 U.S.C. § 7701(c)(2)(B).

<sup>302</sup> Bennet Comments at 7-8.

<sup>303</sup> FCBA Comments at 30-31.

<sup>304</sup> *Id.*

<sup>305</sup> The Debt Collection Improvement Act of 1996 has seven purposes: 1) to maximize collections of delinquent debts owed to the Government by ensuring quick action to enforce recovery of debts and the use of all appropriate collection tools; 2) to minimize the costs of debt collection by consolidating related functions and activities and utilizing interagency teams; 3) to reduce losses arising from debt management activities by requiring proper screening of potential borrowers, aggressive monitoring of all accounts, and sharing of information within and among Federal agencies; 4) to ensure that the public is fully informed of the Federal Government's debt collection policies and that debtors are cognizant of their obligations to repay amounts owed to the Federal Government; 5) to ensure that debtors have all appropriate due process rights, including the ability to verify, challenge, and compromise claims, and access to administrative appeals procedures which are both reasonable and protect the interests of the United States; 6) to encourage agencies, when appropriate, to sell delinquent debt, particularly debts with underlying collateral; 7) to rely on the experience and expertise of private sector professionals to provide debt collection services to Federal agencies. See 31 U.S.C. § 3701.

"doing business" with us.<sup>306</sup> Under the DCIA, "doing business" before an agency is defined as "...an applicant for or recipient of a Federal license, ..." <sup>307</sup> Therefore, we consider those with attributable interests under section 1.2112 of the Commission's Rules as being "applicant[s] for, or recipient[s] of, a Federal license. . . ." for purposes of the DCIA.<sup>308</sup> We believe that entities subject to the disclosure requirements of section 1.2112 -- entities from whom we require submission of ownership information regarding their relationship with the applicant of record -- are components of the applicant and thus constitute "an applicant for, or recipient of, a Federal license . . . ." In short, if an entity holds an interest level that necessitates disclosure under section 1.2112, we believe that entity holds a level of interest that justifies recognition as an "applicant" for purposes of the DCIA.<sup>309</sup> Moreover, considering such an interest holder as an applicant for purposes of the DCIA is consistent with our decision in the *Part 1 Third Report and Order* that any interest holder subject to the disclosure requirements of section 1.2112 must be treated as akin to an "applicant."<sup>310</sup>

140. Moreover, an entity with an attributable interest in a Commission license undoubtedly enjoys a public benefit and thus constitutes an "applicant for, or recipient of," the license. In fact, the Treasury Department clearly states "providing a TIN has now become a condition of receiving a [Federal] benefit."<sup>311</sup> We disagree with those commenters who argue that only the named applicant or licensee reaps the benefits of a license. In reality, all those investing in an applicant's business plan enjoy the financial and public interest benefits of a license. To that end, we treat all individuals or entities with a 10 percent or greater interest in an applicant or licensee as component members of the "applicant."

141. Therefore, for the purposes of implementing the ULS system, based upon the foregoing discussion and applicable statutes and regulations, the requirement for the TIN will operate as follows:

---

<sup>306</sup> See 31 U.S.C. § 7701(c)(1); see also "Frequently Asked Questions About the Debt Collection Improvement Act of 1996 (updated Feb. 10, 1998) <<http://www.fms.treas.gov/debt/dmfaq.html#TINs>> .

<sup>307</sup> See 31 U.S.C. § 7701(c)(1)(2)(B).

<sup>308</sup> See 47 C.F.R. § 1.2112.

<sup>309</sup> We clarify that only those applicants and licensees required to file a Form 602 need to provide the detailed ownership information under § 1.2112. See Section III.B.3., *supra*.

<sup>310</sup> In addressing the term "applicant" and the scope of disclosure requirements which are now in Form 602, we stated "[a] 10 percent or greater interest reporting requirement is consistent with the revised definition of the term 'applicant' we adopt for...the anti-collusion rule..." *Part 1 Third Report and Order*, 13 FCC Rcd. at 419, ¶ 75; see 47 C.F.R. § 1.2105(c)(6)(i).

<sup>311</sup> Frequently Asked Questions About the Debt Collection Improvement Act of 1996 (updated Feb. 10, 1998) <<http://www.fms.treas.gov/debt/dmfaq.html#TINs>>.

- All applicants for licenses and all licensees must register their TIN with this Commission through ULS.
- The real party in interest and/or the entity having actual/*de facto* control of any applicant or licensee, however such control may manifested or styled, must supply its TIN.
- Applicants and licensees who must identify officers, directors, and holders of ownership interests in the license of 10 percent or greater pursuant to section 1.2112(a) must supply the TINs of such officers, directors, interest holders.<sup>312</sup>

142. Finally, we note that members of the general public seeking access to the ULS system for queries or research, as contemplated in the *ULS Notice*, will not be required to provide a TIN to obtain access to ULS. Third parties seeking to file pleadings in a pending matter need not provide a TIN to file the pleading, but such parties at their option, will be able to utilize a password or identifier chosen by them.<sup>313</sup>

### C. Collection of Licensing and Technical Data

#### 1. Overview

143. Background. In conjunction with the development of the ULS, we have conducted a thorough review of our current data collection and licensing functions to identify those requirements which can be streamlined. As a general matter, in the *ULS Notice* we tentatively concluded that it would serve the public interest to equalize, as much as possible, the reporting burden on geographic area licensees in order to treat similarly situated licensees in a consistent manner and to allow us to more effectively collect the data we need to fulfill our statutory mandates.<sup>314</sup> We sought comment on what reporting requirements, both technical and non-technical, should be established for geographic area licensees.<sup>315</sup>

144. Several commenters argue that the Commission should collect additional technical information from geographic licensees for coordination purposes. FCBA argues that technical data reporting requirements for geographic area licensees will aid coordination with adjacent market licensees and are needed to facilitate licensing in services that are licensed both on a geographic and a

---

<sup>312</sup> See 47 C.F.R. § 1.2112.

<sup>313</sup> *ULS Notice* at 9702-3, ¶¶ 73-5.

<sup>314</sup> *ULS Notice* at 9704, ¶¶ 78-9.

<sup>315</sup> *Id.*

site-by-site basis.<sup>316</sup> FIT supports the continued collection of technical information from licensees in the VHF bands in order to allow the forest products industry to obtain sufficient information to coordinate mobile and fixed relay stations, and suggests that required information should include the location of fixed or base stations, ERP, antenna height, and emission strength.<sup>317</sup> Other parties who commented on this issue argue that certain reporting requirements applicable to geographic licensees should be eliminated or modified to make reporting requirements consistent across services. For example, some LMDS commenters specifically supported our proposed elimination of requirements that they report type acceptance number, line loss, channel capacity, and baseband signal type under Part 101.<sup>318</sup>

145. Discussion. We remain convinced that it serves the public interest to streamline our rules to minimize and standardize the technical reporting requirements for geographic area licensees as much as possible. For example, as several commenters point out, our rules contain inconsistent requirements with respect to the obligation of geographic area licensees to provide the Commission with information regarding the location and technical characteristics of individual transmitter sites. WNP Communications and Winstar Communications point out that LMDS licensees must notify the Commission of the "addition, removal, or relocation of" all facilities within their geographic service areas.<sup>319</sup> Similar provisions are also contained in our 800 MHz SMR and 220 MHz geographic licensing rules.<sup>320</sup> By contrast, commenters point out that in other geographically licensed services, such as 39 GHz, geographic licensees are not required to provide this type of site information to the Commission.<sup>321</sup>

146. We agree that our notification requirements for LMDS, 800 MHz, and 220 MHz geographic licensees are inconsistent with our rules for other geographically licensed services. The notification requirements in these services were intended to facilitate coordination and prevent interference between geographic licensees and site-based incumbents operating on the same frequencies in the same licensing areas who had been grandfathered prior to geographic licensing.<sup>322</sup> However, requiring geographic licensees to file notifications of every new, relocated, or removed site in a multi-

---

<sup>316</sup> FCBA Comments at 21-22.

<sup>317</sup> FIT Comments at 18-19.

<sup>318</sup> WNP Comments at 1-5 (supporting the Commission's general conclusion); BellSouth Comments at 25.

<sup>319</sup> WNP Comments at 1-5; Winstar Reply Comments at 2-3. See 47 C.F.R. §§ 101.61(c)(10), 101.1009(b).

<sup>320</sup> See 47 CFR §§ 90.683, 90.763

<sup>321</sup> See, e.g., 47 C.F.R. § 101.149.

<sup>322</sup> See, e.g., Amendment of Part 90 of the Commission's Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band, *First Report and Order*, *Eighth Report and Order*, and *Further Notice of Proposed Rulemaking*, 11 FCC Rcd. 1463 (1995), ¶ 52.

site system imposes a significant filing burden of the very type that geographic licensing was designed to mitigate. In addition, we have not adopted this approach in other geographically licensed services that also have site-based incumbent licensees, such as paging, 900 MHz SMR, and 39 GHz.

147. We also conclude that for the Commission to collect site data from geographic licensees through a notification process is not necessary to achieve the public interest goals we have identified, and that less burdensome requirements will serve the same purpose as effectively. First, in all of these services, our rules impose technical limitations on the operations of geographic licensees in order to afford interference protection to incumbent facilities. Second, while collecting site information may be helpful to coordination between geographic licensees and incumbents to prevent interference, it is not a substitute for actual coordination between the licensees themselves. Even without such technical information, the Commission's database will contain sufficient information to ensure that neighboring operators can identify the licensees with whom they must coordinate, rather than requiring all operators to maintain updated, detailed information with the FCC for full coordination analysis. This places the primary responsibility for coordination in geographically licensed services on the licensees themselves, where we believe it should be. It also reduces the regulatory burden on licensees. Standardizing the information required across all services which license by geographic service area will allow consistent treatment of licensees in similar situations.

148. Accordingly, we will remove the site notification requirement from Part 101 for LMDS geographic licensees, as well as from the Part 90 rules pertaining to auctioned 220 MHz and 800 MHz geographic licenses. Our conclusion here is in accord with our treatment of PCS, 900 MHz SMR, paging, 39 GHz, and other microwave services that are we have auctioned or plan to auction based on geographic areas. We will instead require geographic licensees to maintain site information as part of their station records and to provide it to incumbents and the public on request. Moreover, if an interference issue arises between a geographic licensee and a site-based incumbent, we have the authority under section 308 of the Act to compel production of site location information by the geographic licensee as needed. While we eliminate the above notification requirements, however, we emphasize that there continue to be circumstances where collecting individual site data is necessary. Therefore, we continue to require all licensees, including geographic service area licensees, to comply with existing procedures for environmental, quiet zone, and FAA approval of specific antenna sites where required by our service rules.

149. In the *ULS Notice* we tentatively concluded that, at a minimum, applicants for geographic area licenses in the wireless telecommunications services should provide technical information when proposed antenna structures are more than 200 feet above ground or are located near an airport. FCBA objects to this proposal to the extent that it proposes anything greater than the Commission's current antenna structure registration requirements.<sup>323</sup> We did not propose to increase our antenna structure registration requirements. Instead, we proposed to retain FCC Form 854 in its

---

<sup>323</sup> FCBA Comments at 21-22.



current format, and moreover, we did not propose to amend Part 17 of our Rules.<sup>324</sup> Our current Part 17 requirements ensure that Commission-registered structures do not create safety hazards. Consistent with the goals of this proceeding, we will not require applicants or licensees to provide technical data for FAA-approved sites, except for major modifications, as described in section 1.929. We also note commenters' suggestion that we not consider the location of a facility in a floodplain to be a major action requiring an environmental assessment.<sup>325</sup> Because this proceeding does not affect our statutory requirements under the National Environmental Protection Act (NEPA), we believe that it is necessary for geographic area licenses to continue to comply with all aspects of our NEPA rules, and we will not adopt this suggestion.

150. Once ULS is fully implemented, we will further review our data collection requirements to identify other aspects that may be unnecessary. For example, BellSouth questions the need for cellular licensees to continue to file maps in light of the mapping feature of ULS.<sup>326</sup> Eventually, the mapping utility included with ULS may eliminate the need to collect maps of cellular geographic service areas (CGSAs) and display service areas of site-based licensees. Implementation of the mapping utility for the cellular service, however, requires the integration of licensee-submitted System Information Update (SIU) maps into ULS. At such time as the SIU maps are fully integrated into ULS, we will revisit this issue with the intention of eliminating the requirement to file maps. For now, we will continue to collect this information from cellular licensees.<sup>327</sup> We delegate authority to the Wireless Bureau to determine the proper time for the elimination of this requirement.

## 2. Use of Notification or Certification in Lieu of Informational Filings

151. Background. We proposed to replace informational filings with notification or certification to best utilize the electronic filing system, reduce applicant and licensee burdens and increase efficiency within the Wireless Bureau.<sup>328</sup> In some cases where there is an informational or other data requirement, we proposed to use certifications or notifications by the applicant or licensee instead. The proposed rule sections in the *ULS Notice* appendices contained the new certification or notification procedures, as do the proposed forms and schedules.<sup>329</sup> An example of a new certification requirement in lieu of an information filing requirement is in proposed section 101.701, which requires common carrier fixed microwave licensees to certify that substantial non-private use is being made of

---

<sup>324</sup> *ULS Notice* at 9704, ¶ 78 and n.126.

<sup>325</sup> GTE Reply Comments at 6-7.

<sup>326</sup> BellSouth Comments at 7; Airtouch Comments at 10.

<sup>327</sup> See § 1.929, Appendix G.

<sup>328</sup> *ULS Notice* at 9705, ¶ 80.

<sup>329</sup> *Id.*

facilities used to relay broadcast television signals. An example of a new notification requirement in lieu of an informational filing is in proposed section 101.305, where non-dominant common carriers planning to discontinue service must give electronic notification of discontinuance to the Commission. We requested comments on these proposals.

152. Discussion. Four parties commented on our proposals. Of the four comments received, each supports the Commission's conclusion that electronic filings via notification or certification would reduce licensee burdens and enable more efficient operations.<sup>330</sup> We conclude that use of the notification and certification processes will substantially reduce the administrative burdens on the Commission and the filing burdens on applicants and licensees. However, we caution applicants and licensees that they must be prepared to provide the underlying information upon which their notification or certification depends, upon Commission request. Accordingly, we find that the proposed rules dispensing with informational filings, and replacing them with certifications or notifications, are in the public interest.

### 3. Public Mobile Radio Service Data Requirements

153. Background. In the *ULS Notice*, we proposed eliminating the requirement for certain Public Mobile Radio Service applicants and licensees to file antenna model, manufacturer, and type with the Commission.<sup>331</sup> We stated that we could eliminate this information since we fundamentally altered the method for determining service contours and CGSAs<sup>332</sup> in the paging and radio telephone service.<sup>333</sup>

154. We also proposed to eliminate the requirement that unserved area applicants in the Cellular Radiotelephone Service submit paper copies of: (a) an application cover, (b) transmittal sheet, (c) table of contents, and (d) numerous engineering exhibits.<sup>334</sup> We believed these paper copy requirements are inconsistent with our proposal to require electronic filing by cellular applicants and

---

<sup>330</sup> AASHTO Comments at 7; FCBA Comments at 22; FIT Comments at 19; Nextel Comments at 9.

<sup>331</sup> See 47 C.F.R. § 22.529(b)(3).

<sup>332</sup> Amendment of Part 22 of the Commission's Rules to Provide Filing and Processing of Applications for Unserved Areas in the Cellular Service and to Modify Other Cellular Rules, CC Docket No. 90-6, 8 FCC Rcd. 1363 (1993).

<sup>333</sup> *ULS Notice* at 9705, ¶ 82; see also, Revision of Part 22 of the Commission's Rules Governing the Public Mobile Services, *Report and Order*, 9 FCC Rcd. 6513 (1994) (*Part 22 Rewrite*).

<sup>334</sup> See 47 C.F.R. § 22.953.

proposed to eliminate this requirement for cellular unserved applicants.<sup>335</sup> We requested comments on these proposals.

155. Discussion. The FCBA supported the elimination of technical antenna information<sup>336</sup> as well as the proposed elimination of certain formatting requirements for Cellular Radiotelephone Service unserved area applications. The FCBA agrees with the Commission's conclusion that such requirements are superfluous,<sup>337</sup> inconsistent with an electronic filing environment,<sup>338</sup> and should thus be eliminated when unserved area applications are filed electronically.<sup>339</sup>

156. There was some opposition to our proposal to eliminate the requirement for applicants or licensees in the Part 22 mobile services to submit the make and model number of their antenna.<sup>340</sup> Commenters contend that knowledge of the antenna model is critical in making the determination of how the interference contour is formed, *i.e.*, without antenna model information, the Commission and the public will be unable to determine whether the effective radiated power (ERP) listed for the eight cardinal bearings on Schedule J emanate from calculations using an appropriate antenna pattern showing an acceptable front-to-back ratio.<sup>341</sup> Commenters are concerned that without this information, carriers could mistakenly or unscrupulously encroach upon protected service areas,<sup>342</sup> or render it impossible for Part 22 VHF/UHF paging licenses to comply with rule 22.537, which requires such licensees to provide contour protection to co-channel stations along the entire service contour, and not just at those points that coincide with the eight cardinal bearings.<sup>343</sup> Commenters also contend that this

---

<sup>335</sup> *ULS Notice* at 9706, ¶ 83.

<sup>336</sup> FCBA Comments at 22-23.

<sup>337</sup> *Id.* at 23.

<sup>338</sup> *Id.*

<sup>339</sup> *Id.* at 23.

<sup>340</sup> CenturyTel Comments at 8; EEC Comments at 5; Metamora Comments at 5; PAI Comments at 5; Radiofone Comments at 7; Rinker Comments at 5.

<sup>341</sup> EEC Comments at 6; CenturyTel Comments at 8; Metamora Comments at 6-7; PAI Comments at 6-7; Rinker Comments at 6.

<sup>342</sup> CenturyTel Comments at 8; EEC Comments at 6-7; Rinker Comments at 6; Metamora Comments at 6; PAI Comments at 6.

<sup>343</sup> EEC Comments at 6 *citing* *RAM Mobile Communications of Colorado, Inc.*, 4 FCC Rcd. 2384, ¶¶ 5-6 (MSD 1989); PAI Comments at 6-7; Metamora Comments at 6-7.

information is particularly important in Part 22 VHF/UHF paging because these stations have been engineered to abut one another based upon contour protection.<sup>344</sup>

157. Commenters also expressed concern that FCC Form 601 will not provide enough information for an incumbent licensee on the lower band frequencies to modify its station and be sure that it is fully protected by the co-channel licensee auction winner.<sup>345</sup> Commenters believe the reduced antenna information may make it more difficult for the auction winner to ensure that an incumbent co-channel licensee is staying within its authorized contours.<sup>346</sup> CenturyTel notes that Schedule J to Form 601 elicits information about the beam width of a directional antenna, as well as ERP and height above average terrain along the eight cardinal radials, but only for fixed stations and not base stations; this information should also be required for base stations.<sup>347</sup>

158. AirTouch states that the proposed rules are unclear as to whether cellular applicants will continue to be required to file maps in connection with their applications.<sup>348</sup> AirTouch states that the proposal retains section 22.929(c), which imposes a map filing requirement, but also proposes to eliminate section 22.953, which establishes the formatting requirements for such maps.<sup>349</sup> AirTouch states that, because ULS is able to generate maps from licensee-provided information, it is unclear why the Commission would retain an additional requirement to submit maps.<sup>350</sup> We agree with the commenters that the requirement for cellular licensees to file maps should be eliminated as soon as possible. As we discussed above, this requirement must be retained for a short time so that cellular map data already on file with the Commission may be fully integrated with the ULS's mapping utility. We will revisit this issue in the near future when integration with the ULS mapping utility is completed.

159. After evaluating our procedures and rules we find that we no longer need to collect and record technical antenna information nor do we need unserved area applicants in the Cellular Radiotelephone Service to submit the aforementioned paper exhibits. We therefore eliminate these requirements. However, we will require all licensees to maintain this information as part of their station records and to provide it to licensees and applicants upon request. Moreover, if an interference

---

<sup>344</sup> EEC Comments at 6; Metamora Comments at 6 and n.3; PAI Comments at 6 and n.3; Rinker Comments at 6, n.3.

<sup>345</sup> CenturyTel Comments at 8; Radiofone Comments at 7.

<sup>346</sup> CenturyTel Comments at 8; Radiofone Comments at 7.

<sup>347</sup> CenturyTel Comments at 8.

<sup>348</sup> AirTouch Comments at 10.

<sup>349</sup> *Id.*

<sup>350</sup> *Id.*

issue arises, we have the authority under section 308 of the Act to compel production of antenna information.

#### 4. Fixed Microwave Service Data Requirements

160. Background. Effective August 1996, the Commission eliminated and combined many of the fixed microwave service rules of Parts 21 and 94 of the Commission's rules and consolidated the remaining rules into a single, new Part 101.<sup>351</sup> In the *ULS Notice*, the Commission proposed to further streamline the rules by eliminating the requirement that fixed microwave service applicants and licensees submit type acceptance number, line loss, channel capacity, and baseband signal type for each application.<sup>352</sup> We noted that as we place an increasing amount of responsibility for interference coordination on the parties themselves,<sup>353</sup> this information is not critical nor does it provide useful data in support of the Wireless Bureau's licensing processes.<sup>354</sup>

161. Discussion. Commenters that addressed this issue express near unanimous support for the Commission's proposal.<sup>355</sup> Some of these commenters urge the Commission to go further and also eliminate other requirements. For example, the FCBA states that in light of the goal of collecting less data because licensees are increasingly responsible for interference coordination, the Commission should consider eliminating the filing of the following "extraneous" information: transmitter manufacturer name, digital modulation rate, digital modulation type, median receiver signal level, antenna manufacturer name, and antenna model number.<sup>356</sup> For the same reason, Comsearch suggests the Commission eliminate the requirement of listing the digital modulation type, because it has no bearing on the technical merit of an application.<sup>357</sup> NSMA, on the other hand, opposes the elimination of this technical data submission requirement for point-to-point microwave service applicants to the

---

<sup>351</sup> See Reorganization and Revision of Parts 1, 2, 21, and 94 of the Rules to Establish a new Part 101 Governing Terrestrial Microwave Fixed Radio Services, WT Docket No. 94-148, *Report and Order*, 11 FCC Rcd. 13449 (1996), *recon. pending (Part 101 Report and Order)*.

<sup>352</sup> *ULS Notice* at 9706, ¶ 84; see 47 C.F.R. § 101.21.

<sup>353</sup> See 47 C.F.R. § 101.103(d).

<sup>354</sup> *ULS Notice* at 9706, ¶ 84.

<sup>355</sup> WNP Comments at 5; CellNet Comments at 7; BellSouth Comments at 25; API Comments at 15; Pathnet Comments at 5; Comsearch Comments at 6; FCBA Comments at 23; Nextel Comments at 9; SBC Comments at 14.

<sup>356</sup> FCBA Comments at 23.

<sup>357</sup> Comsearch Comments at 6.

extent that this information is necessary to "evaluate the interference environment."<sup>358</sup> NSMA also suggests that the Commission require submission of received signal level (RSL) data with these applications as it would be useful in interference studies.<sup>359</sup>

162. We adopt our proposal in the *ULS Notice* to eliminate the requirement that applicants and licensees include type acceptance number, line loss, channel capacity, and baseband signal type for each application. The overwhelming majority of commenters agree with our tentative conclusion that this information is not necessary for licensing purposes. As we conclude that reducing the burden on applicants and licensees is in the public interest, we decline to adopt NSMA's suggestion that we require RSL data to be submitted with applications. We are not convinced at this time, however, that we should eliminate the filing of other technical information as proposed by the FCBA and Comsearch.

163. Teligent proposes that the Commission modify section 101.5(b) of the Commission's rules<sup>360</sup> to eliminate the requirement that DEMS licensees file a separate application for each new DEMS nodal station they seek to add to their systems.<sup>361</sup> Teligent states that this requirement is inconsistent with the requirements imposed on other similarly situated fixed wireless service licensees, such as 38 GHz and LMDS licensees,<sup>362</sup> that are also licensed on a wide-area basis and have exclusive use of their licensed frequencies in their geographic areas.<sup>363</sup> On the other hand, NSMA opposes Teligent's proposal on the grounds that because a DEMS licensee would not be able to conduct an interference evaluation for nodal stations in adjacent areas owned by another licensee, continued frequency coordination for new stations is necessary to prevent interference problems.<sup>364</sup> Teligent also proposes that the Commission eliminate the corresponding requirements in sections 101.5(b) and 101.503 that a DEMS licensee apply for authority to serve a specific number of user stations for each separately licensed nodal station.<sup>365</sup> We decline to adopt Teligent's proposals as part of this *Report and Order*. The Commission has consistently upheld the DEMS service rules, and granted waivers where appropriate, and should changes in those rules be justified they will be made in a future proceeding.

---

<sup>358</sup> NSMA Comments at 10.

<sup>359</sup> *Id.* at 9-10.

<sup>360</sup> See 47 C.F.R. § 101.5(b).

<sup>361</sup> Teligent Comments at 1-4.

<sup>362</sup> See 47 C.F.R. §§ 101.147(v), 101.1009.

<sup>363</sup> Teligent Comments at 2-3.

<sup>364</sup> NSMA Reply Comments at 2.

<sup>365</sup> Teligent Comments at 4, n.7.

164. Winstar suggests that the Commission amend section 101.215<sup>366</sup> to exempt Part 101 geographic area licensees from information posting requirements for customer stations,<sup>367</sup> and modify section 101.149(b) to eliminate the specific requirement that 39 GHz licensees post a service area authorization at each operating station.<sup>368</sup> It argues that these requirements are unduly burdensome for geographic area licensees that ultimately will maintain facilities at hundreds of customer sites in each city in which they provide service.<sup>369</sup> For similar reasons, Winstar recommends that the Commission amend its rules to exempt Part 101 geographic area licensees from the station recordkeeping requirements of section 101.217.<sup>370</sup> This Commission consistently maintains rules requiring that transmitter sites be identified with either the station authorization or with information indicating where the station information can be found.<sup>371</sup> The Part 101 rules on this matter are found at 47 C.F.R. §§ 101.215 and 101.149. We believe that availability of this information is important to ensure accountability of the licensee to the public. For example, a transmitter causing interference due to poor maintenance or accident can be found with direction-finding equipment, but without information regarding the owner/operator available at the site, an aggrieved party will not know who to contact for relief from the interference. This on-site information becomes even more important because elsewhere in this *Report and Order* we relieve licensees of the requirement to file the location of each of its transmitters with this Commission. Accordingly, we believe that the public interest in having an readily identifiable contact at each transmitter site outweighs the inconvenience to licensees. With regard to station record information required under section 101.217, we believe for similar reasons that this information is as important for geographic licensees as it is for site-based licensees. It becomes even more important that licensees keep complete records of their transmitters because under ULS, this Commission will no longer collect that information unless it is necessary to review the information in connection with a complaint or other question regarding transmitter engineering. Accordingly, we decline to adopt Winstar's suggestions in this regard.

## 5. Maritime and Aviation Services Data Requirements

165. Background. In the *ULS Notice*, we requested comment on whether the proposal to eliminate various rules that require attachments of showings and coordination statements could negatively affect the quality of maritime or aviation communications.<sup>372</sup>

---

<sup>366</sup> See 47 C.F.R. § 101.215.

<sup>367</sup> Winstar Reply Comments at 9-10.

<sup>368</sup> Winstar Reply Comments at 3-4.

<sup>369</sup> Winstar Comments at 9.

<sup>370</sup> Winstar Comments at 10. See 47 C.F.R. § 101.217.

<sup>371</sup> See, e.g., 47 C.F.R. §§ 22.303, 24.415(j).

<sup>372</sup> *ULS Notice* at 9706, ¶ 85.

166. Discussion. The sole commenter to the proposed Aviation Services rule raised one objection. The Aerospace and Flight Test Radio Coordinating Council (AFTRCC) opposes the elimination of the independent statement by a frequency coordinator for flight test station applicants.<sup>373</sup> Currently, section 87.305 of our rules requires a flight test station applicant to secure a statement from a frequency advisory committee that comments on the station's probability of interference with an existing station.<sup>374</sup> AFTRCC suggests that the proposal to replace the independent statement with a certification does not address the certainty required for aviation radio operations.<sup>375</sup> While it is our intention to facilitate electronic filing and eliminate burdens upon applicants, we want to maintain maximum public safety. We have decided to continue to require the independent frequency coordinator statement for flight test station applicants.

167. Maritime Services parties did not comment on our proposal to delete various showings and attachments currently required to be provided with applications in these services. Some showings were replaced with the requirement that applicants certify that they meet the rule requirements, other showings were replaced with the requirement that relevant information be available upon Commission request. We continue to believe that these streamlined application requirements fulfill our statutory responsibilities and reduce the regulatory burden on applicants and licensees. Accordingly, we adopt our proposals for the streamlined rule provisions in Part 80 of the Commission's rules.

## 6. Commercial Radio Operator License Data Requirements

168. Background. Currently, applicants seeking commercial radio operator licenses must pass one or more written examinations administered by a Commission-certified Commercial Operator License Examination (COLE) Manager and obtain a proof of passing certificate (PPC).<sup>376</sup> Once the PPC is obtained, the applicant must then provide the original PPC to the Commission upon application for a license.<sup>377</sup> In order to electronically automate the licensing procedures, we proposed three

---

<sup>373</sup> AFTRCC Comments at 2-4.

<sup>374</sup> See 47 C.F.R. § 87.305. Which provides requirements for the frequency advisory committees.

<sup>375</sup> AFTRCC Comments at 4.

<sup>376</sup> See, e.g., 47 C.F.R. §§ 207-211. No examination is required to obtain either the Restricted Radiotelephone Operator Permit or the Restricted Radiotelephone Operator Permit-Limited Use. See 47 C.F.R. § 201(b).

<sup>377</sup> Each application for a new General Radiotelephone Operator License, Marine Radio Operator Permit, Radiotelegraph Operator's Certificate, Second Class Radiotelegraph Operator's Certificate, Third Class Radiotelegraph Operator's Certificate, Ship Radar Endorsement, Six Months Service Endorsement, GMDSS Radio Operator's License or GMDSS Radio Maintainer's License must be made on FCC Form 756. Each application for a Restricted Radiotelephone Operator's Permit must be made on FCC Form 753. Each application for a restricted Radio Telephone Permit-limited Use must be made on a FCC Form 755. 47 C.F.R. §



options in the *ULS Notice* by which to electronically verify PPCs. We sought comments on whether COLE Managers should: (1) electronically file with the Commission data showing which examination elements an examinee has passed; (2) establish procedures that would allow COLE Managers issuing a PPC to verify the authenticity of that PPC, upon Commission request; or (3) require COLE Managers to submit applications on behalf of the applicants.<sup>378</sup>

169. Discussion. We received little comment on the above-mentioned proposals. Although the comments regarding electronic filing were positive, no commenter specifically addressed the option proposed in the *ULS Notice* for electronically verifying PPCs. Further, no comments were received as to how the Commission should automate the application process. Therefore, we will adopt a rule that embodies our goals of electronic automation while best serving the public interest. With regard to a first filing, a renewal, or a modification application, the applicant may use the current procedures.<sup>379</sup> Alternatively, the applicant may file electronically using FCC Form 605. For a new license, the applicant must file Form 605 and mail the PPC to the processing office in Gettysburg, Pennsylvania. For renewals, the applicant need only file Form 605, since no attachments are required. With respect to PPC verification by COLE Managers, the current procedures will remain intact. We are committed to ULS and electronic filing believing that these new rules will gradually phase-in electronic filing while making the submission process less onerous for applicants and COLE Managers.

170. W5YI encouraged changes to the Temporary Operator Permit section in Schedule "D" of Form 605 by suggesting a perforated, tear-off part which the applicant could retain. We agree that this change will promote convenience and ease of use for the applicant and we will implement the proposed change in a future version of Form 605.

171. We want to make it clear that in announcing the above rules, we are not mandating electronic filing for Commercial Radio Operators, rather we are strongly encouraging it in the belief that the public interest is best served by this practice. In addition, we will consider in a future proceeding more efficient methods of verifying PPCs other than manual submission.

## 7. Amateur Radio Services

172. Background. In the *ULS Notice*, we requested comment on whether we should authorize reciprocal operation by foreign amateur radio operators by rule.<sup>380</sup> Currently, in order to obtain an alien amateur reciprocal permit, the visitor must apply using FCC Form 610-A. No test or other

---

13.9.

<sup>378</sup> *ULS Notice* at 9707-8, ¶ 88-90.

<sup>379</sup> See 47 C.F.R. § 13.9.

<sup>380</sup> *ULS Notice* at 9708, ¶ 91.

standard is required of these applicants other than that they possess a license from their country of citizenship. There is no fee. Accordingly, the FCC-issued permit merely confirms that holders of such permits also hold a license from their country of citizenship and that the United States has a reciprocal treaty agreement with their country. Our proposal to authorize reciprocal operation by rule would eliminate the need for foreign citizens to file Form 610-A and receive an additional permit from the U.S. In addition, in the *ULS Notice* we sought comment on whether the Commission should accept the services of any organizations for the purpose of providing Club, Military Recreation and Radio Amateur Civil Emergency Services (RACES) station call signs that meet the minimum requirements set forth in section 4(g)(3)(B) of the Communications Act, and that complete a pilot electronic autogrant batch filing project similar to that completed by the 16 Volunteer-Examiner Coordinators (VECs).

173. In an earlier proceeding, we had proposed to amend the Amateur Service Rules in order to facilitate implementation of two international reciprocal operating arrangements -- the European Conference of Postal and Telecommunications Administrations (CEPT) radio-amateur license, and the Inter-American Convention on an International Amateur Radio Permit (CITEL/Amateur Convention).<sup>381</sup> Comments to the *CEPT/CITEL NPRM* indicate that these operating arrangements are desired by amateur operators who want to operate their stations during international travel without first obtaining a permit from each country visited.<sup>382</sup>

174. Discussion After reviewing the comments we have received to both the *CEPT/CITEL NPRM* and the *ULS Notice*, we conclude that all alien amateur radio reciprocal operation should be authorized by rule. As we proposed, however, this decision does not permit any citizen of the United States to operate under this procedure on the authority of a second citizenship and an amateur license from another country. Our decision herein is supported by most commenters, who generally agree with the concept of authorization by rule of reciprocal operating privileges by persons holding a CEPT radio-amateur license issued by a participating CEPT country, or an International Amateur Radio Permit (IARP) issued under the authority of a participating CITEL country.<sup>383</sup> Citizens of CEPT and CITEL countries that are visiting the United States as tourists, attendees at conferences, students and visiting professors, for example, would benefit from having a convenient procedure available whereby they could operate their amateur stations while here in the United States. Additionally, United States citizens who travel in Europe or in the Americas for short visits would similarly benefit.

---

<sup>381</sup> See Amendment of the Amateur Service Rules to Authorize Visiting Foreign Amateur Operators to Operate Stations in the United States, *Notice of Proposed Rule Making*, WT Docket No. 96-188, 11 FCC Rcd. 11768 (1996)(*CEPT/CITEL NPRM*).

<sup>382</sup> Twenty-two countries in Europe have implemented the CEPT agreement. Eight South American countries, Mexico and Honduras countries have implemented CITEL.

<sup>383</sup> See, e.g., AARL Comments at 2; Daniel Plett Comments at 1; Eric and Bonnie Hall Comments at 1; Nick Leggett Comments at 1; see also AARL Reply Comments at 10.

175. In authorizing by rule CEPT licensees and CITEL licensees to operate from locations where the amateur service is regulated by the FCC, the Commission's rules also must specify the operating privileges granted and the station identification requirements. The operating privileges should be consistent with the two classes of CEPT radio-amateur licenses, and IARPs. Class 1 licenses requires knowledge of the international Morse code and carries all operating privileges. It is, therefore, similar to our Amateur Extra Class. Class 2 licenses do not require knowledge of telegraphy and carries all operating privileges above 30 MHz. A Class 2 license, therefore, is similar to our Technician Class operator license. Class 1 operators, therefore, are authorized the frequency privileges of Amateur Extra Class operators. Class 2 operators will receive the frequency privileges of Technician Class operators. For station identification purposes, when the station is transmitting under the authority of a CEPT radio-amateur license, or an IARP, an indicator consisting of the appropriate letter-numeral designating the station location must be included before, after, or both before and after, the call sign issued to the station by the licensing country.

176. For a United States citizens to operate an amateur station in a CEPT country, certain requirements of the CEPT European Radio Committee (ERC) must be met for participation by non-CEPT Administrations. Under the CEPT Agreement, to activate operating authority, a traveler would have to carry credentials in English, French and German that the person, if a U.S. Citizen, and if a Commission-authorized amateur operator, is entitled to certain amateur station operating privileges in the specific countries that have implemented the CEPT Agreement. For this purpose, we intend to rely upon: (1) a public notice containing the above information; (2) proof of Commission-authorization to operate; and, (3) proof of U. S. citizenship.

177. For a United States citizen to operate an amateur station in a CITEL country, an International Amateur Radio Permit (IARP) is necessary. According to the CITEL Agreement, the IARP may be issued by the home administration. Such issuance of the IARP by the home administration may also be delegated to a member-society of the International Amateur Radio Union (IARU).<sup>384</sup> The ARRL has offered its services to the Department of State to issue the IARP document to U.S. citizens for their use when they travel to CITEL countries. The ARRL would provide this service on a non-discriminatory basis, at no cost, charge or expense to the United States Government.<sup>385</sup> We have no objection to the mechanism that ARRL wishes to establish for the issuance of the IARP document to U.S. citizens. Details of this mechanism can be worked out between the AARRL and the Department of State. In the future, the Commission may delegate to other entities the authority to issue the IARP.

178. We note that authorization by rule of CEPT and CITEL licensees merely follows our long-standing precedent permitting Canadian citizens, who hold a license from their home country, to

---

<sup>384</sup> See Article 3 of the CITEL/Amateur Convention.

<sup>385</sup> Letter from Christopher D. Imlay, Esq., General Counsel, ARRL, to the Director, Radio Spectrum Policy, U.S. Department of State (August 2, 1995). See also ARRL Petition for Rule Making, RM-8677, at 1-2 and 11-12.

operate an amateur station in the United States without any further authorization or documentation.<sup>386</sup> We conclude that authorization by rule of CEPT and CITELE licensees would be in the public interest and would benefit foreign visitors to the United States. In accordance with the procedures discussed above, United States citizens who travel abroad to Europe and to countries in Latin America would benefit equally.

179. With respect to our specific proposal to authorize reciprocal operation by rule in the *ULS Notice*, the American Radio Relay League, Inc. (ARRL) is concerned about proposed section 97.25(b) of the Rules, which would eliminate the one-year term for an alien reciprocal permit.<sup>387</sup> We note, however, that this limitation serves no regulatory purpose or benefit since our current rules permit alien amateur radio operators to reapply for new permits indefinitely. Further, we observe that most visitors with reciprocal permits operate only temporarily in the United States and that they are not authorized under the Commission's rules to use more permanent, sophisticated systems such as beacons repeaters, and auxiliary stations.<sup>388</sup> Accordingly, we believe that retention of the one year limitation would perpetuate unnecessary regulation. Moreover, the rule we adopt here is similar to the one that governs operation by Canadian citizens.<sup>389</sup> In that instance, we believe that reciprocal operation authorized by rule has not encouraged Canadian permittees to operate in the United States permanently.

180. ARRL also raised the issue of license documents. Currently, an amateur service license is granted when the licensing data is entered into the Commission's licensee data base, not when the applicant receives the paper document.<sup>390</sup> The ARRL maintains, however, that the paper license is a non-replaceable necessity which establishes certain entitlements.<sup>391</sup> While we appreciate ARRL's concerns, we are not willing to reassess this settled issue. In our *Amateur Licensing MO&O*, we reiterated that "operation is authorized when the *grant of the license has occurred* (emphasis added)."<sup>392</sup> We believe that this procedure affords several benefits overlooked by the League. Most importantly, it provides authority to the licensee to undertake operations almost immediately. Once the applicant's license grant is posted on the web site, the licensee is authorized to start operating

---

<sup>386</sup> See 47 C.F.R. § 97.107(a).

<sup>387</sup> 47 C.F.R. § 97.25(b).

<sup>388</sup> 47 C.F.R. §§ 97.201, 97.203 and 97.205.

<sup>389</sup> 47 C.F.R. §§ 97.5(c)(2).

<sup>390</sup> Amendment of the Amateur Service Rules to Change Procedures for Filing an Amateur Service License Application and to Make Other Procedural Changes, *Memorandum Opinion and Order*, 10 FCC Rec 5417 (1995) (*Amateur Licensing MO&O*).

<sup>391</sup> ARRL Comments at 9-15.

<sup>392</sup> *Amateur Licensing MO&O*, supra.

immediately, without having to wait for a paper document. This procedure will reduce the wait for a licensee from several months to a matter of days. Finally, we note that presently VECs and other entities have authority to acknowledge an entry in the Commission's database by issuing a paper document to the licensee, based on information downloaded from the Commission's database.

181. ARRL further opposes our proposal to use certain eligible private sector entities, on a volunteer, uncompensated and unreimbursed basis, for the issuance of Club and Military Recreation station call signs.<sup>393</sup> It questions our reinstituting the administrators for these stations after vacating the rules in a previous Commission action.<sup>394</sup> In that action, the Commission established call sign administrators for Club and Military Recreation Stations. Upon reconsideration, however, the Commission vacated that action based on procedural grounds, stating that the matter should have been a rule making proceeding rather than adoption of final rules by order.<sup>395</sup> We continue to believe that the use of call sign administrators would alleviate the Commission's burden of processing applications for Club and Military Recreation stations. By including call sign administration within the ULS electronic filing we believe the licensing process will become more efficient and cost-effective.<sup>396</sup> Therefore, we will accept the services of any organizations that meet the requirements of section 4(g)(3)(B) of the Communications Act.

182. A few commenters also suggest changes to the proposed amateur service application form, FCC Form 605.<sup>398</sup> Both the W5YI Group and ARRL noted that there was no Physician's Certification of Disability (Physician's Certification) on the Form. We agree that this is necessary and it will be included as Part "2" of Schedule "D" of the Form 605. In the *ULS Notice*, the Alien Amateur Radio Request to Operate in the United States (Alien Operation) was formerly located in Part "3." However, as correctly noted by ARRL in its comments, reciprocal authorization by rule obviates this Part and will therefore be removed from the Form 605. We believe that the above changes promote ease of use and best serve the public interest.

---

<sup>393</sup> ARRL Comments at 16-22. In a recent Commission proceeding, we proposed to phase out RACES licenses. See 1998 Biennial Regulatory Review -- Amendment of Part 97 of the Commission's Amateur Service Rules, *Notice of Proposed Rule Making*, WT Docket No. 98-143, 13 FCC Rcd. 15798 (1998).

<sup>394</sup> Amendment of the Amateur Service Rules to Establish Station Call Sign Administrators for Club and Military Recreation Stations, *Order*, 8 FCC Rcd. 3594 (1993); Amendment of the Amateur Service Rules to Establish Call Sign Administrators for Club and Military Recreation Stations, *Memorandum Opinion and Order*, 9 FCC Rcd. 103 (1993); Amendment of the Amateur Service Rules to Implement a Vanity Call Sign System, *Notice of Proposed Rule Making*, PR Docket No. 93-305, 9 FCC 105 (1993).

<sup>395</sup> *Id.* The Commission also noted that it was not necessary to retain those rules because the needs of persons interested in obtaining a Club station license would be met in the Vanity Call Sign proceeding.

<sup>396</sup> Club Station call sign administration only applies to non-fee applications.

## 8. General Mobile Radio Service

### a. Inclusion in this Proceeding

183. Background. GMRS, a Part 95 Personal Radio Service, was originally established as the Citizens Class A Radio Service, and was allocated for use by individuals and entities who were not eligible for licensing in the public safety, industrial, and transportation services. Although the Commission adopted changes to the GMRS in PR Docket No. 87-265 to make the service more efficient and effective for personal users, these changes are now nearly ten years old.<sup>397</sup> The current rulemaking complies with our statutory directive to conduct a biennial review of wireless services, and we take this opportunity to re-evaluate GMRS in order to identify and eliminate regulations that have become unnecessary in the past decade, as well as to ensure that our streamlined licensing process collects the minimum information needed of GMRS licensees and applicants consistent with our statutory responsibilities to license and regulate the use of this service.

184. Discussion. Several parties question whether it was appropriate to evaluate the current GMRS rules in this docket, and urge us to reserve our inquiry into the GMRS for a separate rulemaking. For example, PRSG claims that this proceeding should not be used to introduce rule changes that do not exclusively relate to the development and implementation of ULS, while SBT states that many of the proposed GMRS rule changes are technical in nature and should be considered separately from ULS.<sup>398</sup> We believe that the GMRS rules we proposed and which we adopt herein are both appropriate and necessary under the current docket. We stated at the outset that ". . . as part of our 1998 biennial review of regulations, we are initiating this proceeding to streamline our wireless licensing rules by eliminating regulations that are duplicative, outmoded, or otherwise unnecessary."<sup>399</sup> The proposed changes to the GMRS rules likewise are consistent with our announcement that "the scope of this first biennial review will be broader than required by the 1996 [Telecommunications] Act," and the Chairman's statement that the biennial review "gives us an opportunity to promote meaningful deregulation and streamlining where competition or other considerations warrant such action."<sup>400</sup> In the case of GMRS, we have identified numerous rules to be eliminated and streamlined as duplicative or unnecessary to our regulatory responsibilities. Moreover, the requirements contained in the GMRS rules are inextricably linked to the conversion of our data collection procedures and databases to ULS, so we believe that streamlining our GMRS rules is properly included in this

---

<sup>397</sup> Amendment of Subparts A and E of Part 95 to Improve the General Mobile Radio Service (GMRS), PR Docket No. 87-265, *Report and Order*, 3 FCC Rcd. 6554, 6562, ¶ 72 (1988) (*GMRS Report and Order*).

<sup>398</sup> PRSG Comments at iii.; SBT Reply Comments at 9-10; *see also*, Riechel Reply Comments at 1; Vandercook Comments at 1.

<sup>399</sup> *ULS Notice* at 9674, ¶ 1.

<sup>400</sup> *Public Notice*, "1998 Biennial Review of FCC Regulations Begun Early; To Be Coordinated by David Solomon," *Public Notice* (rel. Nov. 18, 1997).

proceeding. For these reasons, our *ULS Notice* outlined the broad scope of our proceeding, specifically discussed our proposed changes to the GMRS, and included a comprehensive list of proposed rule changes. Accordingly, we believe that we have met the requirements outlined under the Administrative Procedures Act, and we disagree with Kobb's suggestion to the contrary.<sup>401</sup>

#### **b. Regulatory Policy**

185. Background. Many commenters view the *ULS Notice* as an effort by the Commission to fundamentally alter the purpose or form of the GMRS. We disagree. Although we have not hesitated to streamline and consolidate rule sections which request information unnecessary for ULS or other regulatory purposes, we have not altered eligibility requirements, permitted communication, the frequency allocation or other rules that could fundamentally alter the purpose of GMRS. Further, we believe the effect of these rule changes will actually increase users' flexibility in using GMRS and will promote use of the service.

186. Discussion. A large number of the commenters view the proposed changes as an initial step toward de-licensing the GMRS. Parrish objects to any attempt to reduce or eliminate current Commission licensing procedures with the goal of moving GMRS towards an unlicensed service, such as the Citizens Band Radio Service, while FIT supports the proposed changes and suggests that we consider authorizing the operation of GMRS stations by rule.<sup>402</sup> We reject both FIT's proposal and individual GMRS commenters' suggestions. Under the authority granted by the Communications Act of 1934 (as amended), the Commission may authorize the operation of radio stations by rule and without individual licenses only for specific services.<sup>403</sup> The Commission has never considered interpreting this authority to include GMRS. Moreover, the *ULS Notice* did not propose to change the status of the GMRS to a service which may be licensed by rule pursuant to the statute. To the contrary, our goals in this proceeding are to comply with our Biennial Review responsibilities and to amend the Commission's rules in a way which facilitates electronic filing and automatic processing as much as possible consistent with our statutory responsibilities. Accordingly, we conclude that Parrish's (and other commenters') concerns in this regard are not applicable to the rule amendments we adopt herein to meet our stated goals and responsibilities.

187. Numerous parties also express concern that our proposed changes will alter the nature of communications within the GMRS. Some of these comments were broad in scope: that the changes would allow "unscrupulous radio operators an opportunity to devastate the GMRS band;" would cause the service to become "user unfriendly;" and would be "potentially disruptive."<sup>404</sup> To the extent that

---

<sup>401</sup> Kobb Comments at 2.

<sup>402</sup> Parrish Comments at 3; FIT Comments at 20.

<sup>403</sup> See 47 U.S.C. § 307(e)(1).

<sup>404</sup> Hilke Comments at 1; J. Davis Comments at 1; Vandercook Comments at 1.

these fears are based on the mistaken belief that we are eliminating licensing and the requirement that users share channels and cooperate with each other, we reiterate that we retain and will continue to enforce these rules. All GMRS users, whether longtime, new, or migrants from another radio band, have always been expected to follow all service rules, including those relating to the mitigation of interference, station identification, and permissible communication. We will continue to hold licensees to this standard.<sup>407</sup> The rules we are eliminating are largely unenforceable and hortatory, and serve to make the GMRS overly complicated and less useful to existing and potential users. Accordingly, we cannot agree that the licensing process for the GMRS serves an independent good by making only the most serious users conduct the procedures necessary in order to secure a license.<sup>408</sup> We strive to adopt rules that serve their stated purpose, and cannot support retention of a rule solely based on its secondary effect.

188. Although PRSG is among the parties that question the scope of our review of the GMRS, it proposes a new definition of GMRS that would "establish a more definitive description of the *basic purpose* of GMRS from which all authority for subsequent regulatory restrictions would derive" (emphasis in original),<sup>406</sup> as well as modifications to the description of a GMRS "system."<sup>407</sup> We will not adopt the proposed changes, as PRSG's proposed definitions would fail to include some existing GMRS users and would eliminate components of the service -- such as fixed station use.

### c. Eligibility

189. Background. In our last major evaluation of the GMRS, we adopted rules to "reorient the GMRS to accommodate more fully the needs of personal users."<sup>408</sup> Significantly, we limited eligibility for obtaining a new GMRS system license to individuals in order to discourage large commercial operations, "grandfathered" existing non-individual (i.e. business) GMRS licenses, and prohibited those "grandfathered" licensees from making major modifications.<sup>409</sup> Under the proposed rules, we retain the ineligibility of business entities to obtain GMRS system licenses and the prohibition against business licensees making major modifications.<sup>410</sup> We remove and relocate to Part 1 the specific rules for applying for a new or modified license.<sup>411</sup>

---

<sup>405</sup> J. Davis Comments at 1.

<sup>406</sup> PRSG Comments at 3.

<sup>407</sup> PRSG Comments at 16-17.

<sup>408</sup> *GMRS Report and Order*, 3 FCC Rcd. at 6562, ¶ 72.

<sup>409</sup> *Id.*

<sup>410</sup> See 47 C.F.R. § 95.5.

<sup>411</sup> See 47 C.F.R. § 95.71; new §§ 1.913; 1.915; 1.923; 1.927; 1.931; 1.934; 1.949.



190. Discussion. Burtner states that the proposed changes will allow business users to encroach on what has traditionally been a personal- and family-oriented service,<sup>412</sup> while Bollschweiler suggests that the proposed rules will allow GMRS to be overrun by business users, which will result in greater interference and disrespect of the shared-nature of the band.<sup>413</sup> We believe these concerns are somewhat overstated because the rule on permissible communications, section 95.181 of the Commission's rules, is substantially unchanged, and a non-individual licensee who fails to abide by the GMRS rules pertaining to mitigation of interference and station identification is still subject to penalty for failure to abide by the service rules. For the benefit of PRSG, which opposes any expansion for non-personal licenses under the current rulemaking,<sup>414</sup> we emphasize that we are not changing the Commission's rules with respect to eligibility for GMRS licenses, and we continue to prohibit non-individual licensees from making major modifications to their systems.

#### **d. Channeling Plan**

191. Background. In the *ULS Notice*, we proposed to authorize stations to transmit on any authorized channel from any geographical location where the FCC regulates communication, eliminating the need for temporary licensing.<sup>415</sup> Currently, a GMRS licensee may use seven 462 MHz interstitial channels, the 426.675 MHz/467.675 MHz nationwide channel pair for emergency communications and traveler assistance, and up to two of seven other GMRS channel pairs. The GMRS licensee is able to choose which channels will be authorized on the license. Under the all-channel operation plan we adopt, we make all seven channels pairs available to GMRS licensees who are individuals (in addition to the already available interstitial channels and nationwide channel pair), which in turn permits each GMRS system licensee to use the best channel available for its stations at any given time or place.

192. Discussion. Several commenters claim that all-channel operation will increase interference and degrade use of their GMRS systems. We disagree, and adopt an all-channel plan with the belief that it will provide licensees with the flexibility to reduce interference and make greater use of their GMRS systems. PRSG claims that such a policy could encourage "chit-chat" and hobby-type communication, while Leef suggests that all-channel operation will result in anonymous users who float from one channel to another.<sup>416</sup> Mendelson predicts interference and inefficient spectrum use under an all-channel plan, and suggests that GMRS users will no longer have the potential for a

---

<sup>412</sup> Burtner Comments at 2.

<sup>413</sup> Bollschweiler comments at 1.

<sup>414</sup> PRSG Comments at 16.

<sup>415</sup> *ULS Notice* at 9709, ¶ 94.

<sup>416</sup> PRSG Comments at 7-8; Leef Comments at 1-2.

working relationship that comes from licensing on specific channels.<sup>417</sup> Under the current licensing plan where a GMRS license is authorized to use up to ten of fifteen allocated channels, users have the ability to communicate on different channels and do not have to remain within a single channel "community" if they choose. An all-channel plan will promote flexible use of GMRS by allowing users to select the channel that provides the best operational environment without having to predict during the licensing process which channels will be most suitable, and represents a natural progression from the *GMRS Report and Order*, where we authorized selection of up to two channels (versus one channel), and authorized use of the seven interstitial channels and the nationwide channel. We adopted those changes with the belief that the additional channels would allow for "much of the flexibility we sought in advancing the all-channel concept," but we decided that "elimination of Commission assignment of channels and channel pairs would be too drastic a step to take at this time," and that retention of channel authorizations would "allow for a more gradual and user-acceptable application of existing and new technologies in the GMRS."<sup>418</sup> Tellingly, no commenter disputed our ten-year-old prediction that licensing of multiple channels, the interstitial channels, and the nationwide channel would promote more efficient spectrum utilization. None identified any potential for misuse or degradation of the GMRS that cannot take place under the current multiple channel licensing plan.

193. All-channel operation will also relieve the public and the Commission of unnecessary regulatory burdens. Currently, we routinely grant channel requests without further evaluation or inquiry. Although several commenters suggest that the proposed changes to the channel use policy should not be undertaken because the current policy is not causing harm to the GMRS,<sup>419</sup> we believe it is appropriate for us to identify and eliminate rules that no longer serve the service, even when those rules are not actively harming use of the service. The all-channel operation plan we adopt today allows for the types of communications that were proposed in commenters' limited all-channel licensing suggestions.<sup>420</sup> Because we have decided to institute an all-channel use policy, we decline to adopt PRSG's suggestions that we retain rule sections relating to the licensing of specific channels and that we retain the restrictions on overlap of GMRS systems under section 95.31 of the Commission's rules.<sup>421</sup> Removal of these regulations is consistent with streamlining the GMRS, and the ready availability of an all-channel plan will give licensees additional flexibility in selecting the channel that best meets their needs.

---

<sup>417</sup> Mendelson Comments at 2.

<sup>418</sup> *GMRS Report and Order*, 3 FCC Rcd. at 6558-59, ¶ 37.

<sup>419</sup> Leef Comments at 2; Yordan Comments at 1; PRSG Reply Comments at 5.

<sup>420</sup> Webber Comments at 1; Forrest Comments at 4; PRSG Reply Comments at 5.

<sup>421</sup> PRSG Comments at 9 and 24.

194. Rosenthal, Yordan, and Burtner fear that the proposed changes will turn the GMRS into a CB-like band, filled with interruptions, profanity, and casual communication.<sup>422</sup> We do not agree, and note that we will continue to require licenses of GMRS users, expect licensees to comply with the GMRS rules, and will use the licensing information to locate and impose sanctions against violators. We recognize that many GMRS users will consider the use of tone-operated squelch or other techniques to limit the use of a repeater to particular stations. While this may limit "the possibility of other channel users from utilizing trained dispatchers to report motorist advisories and emergencies,"<sup>423</sup> we note that users are not presently prohibited from using these techniques. Additionally, we note that because we are not modifying the rules limiting the nationwide channel pair to emergency and traveler assistance communications, this channel pair will suit those owners who have placed repeaters on public property under the condition that they will be used solely for emergency and traveler assistance communications.<sup>424</sup>

195. In conjunction with the proposed all-channel use policy, we proposed to eliminate the rule limiting the use of the 467 MHz channels for transmissions through repeaters.<sup>425</sup> We will retain this provision in our revised rules. Numerous commenters sharply disagreed with the removal of this limitation, and urged us to reconsider. Parrish suggests that interference to repeater operation caused by removal of this limitation would severely disrupt GMRS operations.<sup>426</sup> This belief is echoed by Kobb, Forrest, Silver, and Hilke, among others.<sup>427</sup> We originally adopted this rule after concluding that "significant interference to GMRS repeater operation is virtually inevitable due to non-repeater operations conducted on 467 MHz frequencies."<sup>428</sup> We recognize that this type of interference could still occur if these restrictions are not left in place, and we further note that retention of this provision does not affect our general all-channel use plan, nor does it lessen the administrative and licensing relief afforded by not processing applications and issuing licenses for specific channels. Finally, we take this opportunity to further clarify the section by including and defining the term "repeater." We believe that this clarification will aid licensees and potential GMRS users, and will help the Commission's rules match commonly accepted GMRS terminology.

---

<sup>422</sup> Rosenthal Comments at 1-2; Yordan Comments at 1; Burtner Comments at 2.

<sup>423</sup> Mendelson Comments at 2.

<sup>424</sup> See Mendelson Comments at 2.

<sup>425</sup> See 47 C.F.R. § 95.29(a)(3).

<sup>426</sup> Parrish Comments at 4-5.

<sup>427</sup> Kobb Comments at 1; Forrest Comments at 3; Silver Comments at 2; Hilke Comments at 1; PRSG Comments at 16; PRSG Reply Comments at 4.

<sup>428</sup> *GMRS Report and Order*, 3 FCC Rcd. at 6560, ¶ 56; Schweizer Comments at 1.

### e. Information Collection

196. Background. In the *ULS Notice*, we tentatively concluded that by collecting basic contact information (such as name, address and telephone number) of individuals applying for licenses, we would be able to meet our statutory duty to license and regulate the GMRS. Accordingly, we proposed to consolidate the collection of license information into the new Part 1 rules, and to streamline the GMRS rules to eliminate technical information requirements relating to system configuration and equipment.<sup>429</sup> We also proposed elimination of regulations on points of communications for stations in a GMRS system (sections 95.53-95.61) as part of our evaluation of our information collection needs and overall streamlining of the GMRS.<sup>430</sup> We concluded that points of communication restrictions are sufficiently removed from our licensing function that they can be eliminated.<sup>431</sup> As Forrest observes, the sections' complex description of permissible and non-permissible communication points discourages some individuals from applying for GMRS licenses, creates a burden on the Commission, and stifles innovation by manufacturers.<sup>432</sup> Parrish, like many commenters, claims that by no longer collecting this information, the Commission would leave GMRS users with no readily available means for users to contact other stations in order to foster frequency use, coordinate CTCSS Codes, and resolve interference problems.<sup>433</sup>

197. Discussion. We will adopt our basic information collection as proposed. There is no legitimate government purpose to collect more than basic information to perform our regulatory functions. Moreover, the Commission's databases will continue to provide a point of contact for licensees and because we are not eliminating the station identification requirement, GMRS users will continue to have the basic information necessary to locate other licensees. Nothing in the Commission's rules prohibits groups of GMRS users (or other third parties) from collecting and disseminating additional information about GMRS systems they have obtained from GMRS licensees. Several commenters also suggest that our proposed information collection for the GMRS will no longer allow us to sufficiently regulate use of the band.<sup>434</sup> We disagree. The Wireless Telecommunications Bureau will continue to accept and investigate formal and informal complaints of rule violations in GMRS. This agency has the capability to monitor GMRS transmissions and, when necessary, to conduct field investigations. We do not believe that we will jeopardize our GMRS enforcement by discontinuing much of the current technical information collection.

---

<sup>429</sup> *ULS Notice* at 9709, ¶ 95.

<sup>430</sup> *ULS Notice* at 9709, ¶ 94.

<sup>431</sup> *ULS Notice* at 9709, ¶ 94.

<sup>432</sup> Forrest Comments at 10.

<sup>433</sup> Parrish Comments at 8; Forrest Comments at 6-7; Cochran Comments at 3; REACT Comments at 3-4.

<sup>434</sup> Bollschweiler Comments at 1; Mendelson Comments at 4; Parrish Comments at 9.

198. Because we are adopting streamlined information collection requirements under Part 1 of the Commission's rules, we also reject PRSG's suggestion that we employ a two-tiered information collection requirement.<sup>435</sup> Such a scheme would frustrate our efforts to streamline the GMRS rules, and there is no legitimate governmental purpose served by collecting information from certain GMRS licensees but not others. We disagree with PRSG's objection to the consolidation of information collection requirements into Part 1 of the Commission's rules. We continue to believe that consolidation of our basic rules, when possible, will result in a simple and uniform approach to licensing for our wireless services.

199. PRSG claims that deletion of the rule sections requiring identification of the points of communication would compromise the purpose of the GMRS to be a mobile-oriented radio service.<sup>436</sup> We do not concur and will remove these rules as proposed. The current points of communication rules (and modifications proposed by some commenters) rest on somewhat artificial distinctions on station types. With the advent of modern radio equipment, the same piece of equipment can qualify as a different type of station based on its location and usage. The Commission's rules, however, maintain tight restrictions on permissible communication based on station types. GMRS users are better served by rules that establish general standards than rules that distinguish between how the equipment (fixed or mobile) is used or where it is located.

200. By eliminating the rules on points of communications, we also eliminate the rule that requires station operators of GMRS systems licensed to individuals wishing to use repeaters in other GMRS systems to first secure the repeater owner's permission. Region 20 claims that removal of the prohibition would result in interference to public safety licensees and would make it impossible for repeater station licensees to maintain control over their equipment.<sup>437</sup> Similarly, Parrish points to the significant investment he has made in repeater stations, and expresses concern that our proposed rule changes will lead to unauthorized access to and operation of these privately owned facilities.<sup>438</sup> The requirement that a licensee is responsible for the proper operation of the GMRS system at all times does not in itself justify retention of our points of communication rules. Rather, it underscores the fact that the repeater operator is responsible for the use of his station. In *GMRS Report and Order*, we noted that "closing one's own repeater to prevent undesired use, such as by tone-operated squelch or digital access codes, and limiting those to whom these codes were available, would appear to be another means to establish who has permission to use a licensee's repeater station. This mechanism would avoid disputes regarding repeater operations. We consider this to be the most efficient, most cost-effective and least burdensome approach to improving transient GMRS operations, and encourage

---

<sup>435</sup> PRSG Comments at 3-5; PRSG Reply Comments at 3.

<sup>436</sup> PRSG Reply Comments at 4.

<sup>437</sup> Region-20 Comments at 4-5.

<sup>438</sup> Parrish Comments at 6; Webber Comments at 2; Riechel Reply Comments at 2.

its use."<sup>439</sup> These means of control we identified a decade ago remain viable options for repeater station owners who are concerned about maintaining control over their systems.

#### **f. Antenna Requirements**

201. Background. Our examination of unnecessary and outdated rules led us to propose the elimination of distinctions based on large urban areas. Accordingly, we also proposed to eliminate power and antenna-directivity requirements within and near urban areas, and instead limit all fixed stations regardless of location of a maximum authorized transmitting power of fifteen watts.

202. Discussion. Several parties -- most notably PRSG -- support the retention of power and antenna-directivity requirements within and near urban areas for other types of stations, and suggest that the restrictions could be further expanded.<sup>440</sup> We disagree. The pattern of suburban sprawl and rural growth in the years since this rule was adopted blunts the effectiveness of an urban area distinction. Additionally, the present rule imposes restrictions based on undefined points, such as the "rim" of an urban area. Under the modified maximum authorized transmitting power rule (section 95.135), all fixed stations regardless of location will be limited to fifteen watts output power, while small base stations will continue to be restricted to five watts. We believe that these modifications will further our goal of simplifying and streamlining the GMRS rules while simultaneously protecting GMRS users by retaining limits on the maximum authorized transmitting power. Because urban area distinctions are unnecessary, we also eliminate Appendix B of our current GMRS rules, which lists urban areas.<sup>441</sup>

#### **g. Permissible Communications**

203. Background. In the *ULS Notice*, we proposed to retain the regulations on permissible and prohibited communications, with minor modifications, and to list permissible and prohibited communications under separate rules.

204. Discussion. Although no commenters opposed this concept, PRSG had specific reservations about our list of prohibited communications.<sup>442</sup> Because the elimination of duplicative and ambiguous rules serves the public interest, we will adopt the proposed rules with minor modifications. While we believe that the categories of prohibited communication are discrete and do not need parenthetical explanation, we will maintain the distinction that "10-codes" are not included in the prohibition against coded messages because of the potential for confusion. We will also retain a

---

<sup>439</sup> *GMRS Report and Order*, 3 FCC Rcd. at 6558, ¶ 29.

<sup>440</sup> PRSG Comments at 14-15.

<sup>441</sup> See 47 C.F.R. § 95 ("Appendix B to Subpart A to Part 95 - Where the Large Urban Areas are Located").

<sup>442</sup> PRSG Comments at 24-26.

prohibition on advertisements for the sale of services. We decline to alter our prohibition on profane speech, as suggested by PRSG.<sup>443</sup> Many commenters strongly support the GMRS because it is free of profane, indecent and obscene speech, and many of their concerns are based on the fear that the proposed changes to the GMRS will alter this quality.<sup>444</sup> Finally, we remove the prohibition on sounds only to attract attention.<sup>445</sup> This prohibition is ambiguous and largely unenforceable. Moreover, we envision times -- such as emergency situations -- when the broadcast of such sounds would be both necessary and proper.

#### **h. Rules Pertaining to Management of a GMRS System**

205. Background. We proposed significant changes to the rule sections broadly titled "Managing a GMRS System" (sections 95.103 - 95.181 and app. A and B of the Commission's rules). These changes further our efforts to streamline the GMRS rules by eliminating duplicative rules, as well as deleting those rule sections that offer general guidance but are ambiguous in application or enforcement.

206. Discussion. We note that some commenters, including Parrish and Vandercook, urge us to keep many of these explanatory rules because they fear that users would lack the guidelines and structure necessary to construct, operate, and maintain GMRS systems.<sup>446</sup> We disagree and adopt the changes as proposed. Although some users believe a useful contextual function is served by the complex rules and numerous restrictions on system construction, licensing, and operation contained in the current GMRS rules, we are concerned that the current rules unnecessarily keep many parties from considering and applying for licenses in the GMRS.

207. Many of the rules we eliminate are duplicative. A licensee must have access to the station equipment and be able to disable it in order to maintain the proper operation of the GMRS system at all times, so it is unnecessary to retain specific access language in section 95.103(b). Similarly, in order to maintain the overarching responsibility for proper system operation, a GMRS licensee must regularly monitor and maintain his or her equipment. Many of the rules we propose to delete are ambiguous and unenforceable. For example, the specification that voice station identification in section 95.119(d)(2) be made "with each letter and digit separately and distinctly transmitted (letters may be said using a phonetic alphabet)" does not add to a licensee's understanding of the basic requirement that a station must be identified and may even raise independent questions such as whether a user must engage in a separate transmission for each letter and digit in a call sign and whether a licensee with an accent unfamiliar to the listener is in violation of the rule. Finally, the

---

<sup>443</sup> PRSG Comments at 25.

<sup>444</sup> Burtner Comments at 2, Yordan Comments at 1.

<sup>445</sup> PRSG Comments at 26.

<sup>446</sup> Parrish Comments at 4; Vandercook Comments at 1.

removal of other rule sections, such as those pertaining to system records, station control point and controlling stations from a remote point, and servicing and modifying station transmitters, is wholly consistent with our efforts to institute streamlined licensing and data collection requirements under ULS, and to remove unnecessary rules. In light of our new information collection requirements for GMRS, we also do not need to collect the detailed information specified in section 95.103(c) when a licensee's information changes or when a GMRS user moves or adds a small base station or small control station.

#### IV. PROCEDURAL MATTERS

##### A. Regulatory Flexibility Act

208. The Final Regulatory Flexibility Analysis, pursuant to the Regulatory Flexibility Act, *see* 5 U.S.C. § 604, is contained in Appendix B.

##### B. Paperwork Reduction Act of 1995 Analysis

209. This *Report and Order* contains a modified information collection, which has been submitted to the Office of Management and Budget for approval. As part of our continuing effort to reduce paperwork burdens, we invite the general public to take this opportunity to comment on the information collection contained in this *Report and Order*, as required by the Paperwork Reduction Act of 1995, Pub. L. No. 104-13. Public comments should be submitted to OMB and the Commission, and are due thirty days from date of publication of this *Report and Order* in the Federal Register. Comments should address: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

##### C. Further Information

210. For further information concerning the *Report and Order*, contact Wilbert E. Nixon, Jr., Policy and Rules Branch, Commercial Wireless Division, Wireless Telecommunications Bureau, (202) 418-7240 (voice), (202) 418-7238 (TTY), or by electronic mail at [wnixon@fcc.gov](mailto:wnixon@fcc.gov), or Susan Magnotti, Policy and Rules Branch, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, (202) 418-0871 (voice), (202) 418-7233 (TTY), or by electronic mail at [smagnott@fcc.gov](mailto:smagnott@fcc.gov). For further information concerning the information collections contained in this *Report and Order*, contact Judy Boley at (202) 418-0214 (voice), (202) 418-2970 (TTY), or by electronic mail at [jboley@fcc.gov](mailto:jboley@fcc.gov).



## V. ORDERING CLAUSES

211. Accordingly, IT IS ORDERED that, pursuant to the authority of sections 4(i), 11, 303(g), 303(r), and 332(c)(7) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 161, 303(g), 303(r), 332(c)(7), 47 C.F.R. Parts 0, 1, 13, 22, 24, 26, 27, 80, 87, 90, 95, 97 and 101 of the Commission's Rules are AMENDED as set forth in Appendix F, effective sixty days after publication in the *Federal Register*. The information collection in these rules becomes effective sixty days after publication in the *Federal Register*, following OMB approval, unless a notice is published in the *Federal Register* stating otherwise.

212. IT IS FURTHER ORDERED that the Commission's Office of Public Affairs, Reference Operations Division, SHALL SEND a copy of this *Report and Order*, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. § 601 *et seq.*

213. IT IS FURTHER ORDERED that pursuant to section 5(c) of the Communications Act of 1934,<sup>447</sup> the Chief, Wireless Telecommunications Bureau, IS GRANTED DELEGATED AUTHORITY to develop, implement, modify rules and procedures for the Universal Licensing System to the extent stated herein.

214. IT IS FURTHER ORDERED that Petition for Rule Making RM-8677 is granted as indicated herein and WT Docket No. 96-188 is TERMINATED.

FEDERAL COMMUNICATIONS COMMISSION



Magalie Roman Salas  
Secretary

---

<sup>447</sup> 47 U.S.C. § 155(c).

## Appendix A:

### Names of Commenters and Reply Commenters

**Appendix A, Part 1: List of Commenters (WT Docket No. 98-20)**

<b><u>Comment Filer's Name</u></b>	<b><u>Abbreviations</u></b>
ADT Security Service, Inc.	ADT
Aerospace & Flight Test Radio Council	AFTRCC
Affiliated American Railroads	AAR
AirTouch Communications	AirTouch
Alarm Industry Communications Committee	AICC
American Association of State Highway & Transportation Officials	AASHTO
American Automobile Association	AAA
American Mobile Telecommunications	AMTA
American Petroleum Institute	API
American Radio Relay League	ARRL
Association of Public-Safety Council	APCO
AT&T Wireless, Inc.	AT&T
Ballschweiler, Gary E.	Ballschweiler
Bell Atlantic Mobile, Inc.	BAM
BellSouth	BellSouth
Bennet & Bennet PLC	Bennet
Blackberry React	Blackberry
Brown and Schwaninger	Brown & Schwaninger
Burtner, James R.	Burtner
Butlien, David L.	Butlien
CellNet Data Systems, Inc.	CellNet
Century Telephone Enterprise	Century
Cochran, Kerry D.	Cochran
Comsearch	Comsearch
Consolidated Spectrum Service	CSS
D'Agostino, William	D'Agostino
Davis, Jonathan	J. Davis
Davis, Randy	R. Davis
Durham Communications	Durham Comm.
Electronic Engineering Co	EEC
Federal Communications Bar Association	FCBA
Fixed Point-To-Point Communications(TIA)	TIA
Forest Industries Telecommunications	FIT
Forrest, Gregory, J. Et Al	Forrest
GTE	GTE
Hilke, Ronald G.	Hilke
Hill & Welch	H&W
Hiort, Frederick W. dba B & B Beepers	B&B

**Appendix A, Part 1: List of Commenters (WT Docket No. 98-20) (cont.)**

<u>Comment Filer's Name</u>	<u>Abbreviations</u>
Hollenbeck, Jack G.	Hollenbeck
Kobb, Bennett Z.	Kobb
Krystof, Gary	Krystof
Leef, Robert K.	Leef
Leggett, Nickolaus E.	Leggett
McKeathian, Howard E. Dr.	McKeathian
Mendelson, Richard	Mendelson
Metamora Telephone Company	Metamora
Motorola, Inc.	Motorola
Myers Keller Communications	Myers
National Spectrum Manager Association	NSMA
Nextel Communications, Inc.	Nextel
Paging Associates, Inc.	PAI
Paging Network, Inc.	PNI
Parrish, Kevin J.	Parrish
Pathnet, Inc.	Pathnet
Personal Communications Indutry Assoc.	PCIA
Personal Radio Steering Group	PRSC
Popkin, David B.	Popkin
Porter Communications	Porter
Radio Emergency Associates	REA
Radiofone, Inc.	Radiofone
Region-20 Public Safety	Region-20
Rinker, Karl A. dba Rinker	Rinker
Rosenthal, Mark S.	Rosenthal
SBC Communications, Inc	SBC
Schweizer, Michael	Schweizer
Silver, Alton	Silver
Small Business in Telecommunications	SBT
Superior Technologies, Inc.	Superior
Teligent Inc.	Teligent
Utilities Telecommunications Council	UTC
Vandercook, G. A.	Vandercook
W5YI Group Incorporated	W5YI
Webber, Melvin L.	Webber
Winstar Communications	Winstar
WNP Communications, Inc.	WNP
Yordan, Robert A.	Yordan

**Appendix A, Part 1: List of Reply Commenters (WT Docket No. 98-20)**

<u>Reply Comment Filer's Name</u>	<u>Abbreviations</u>
ADT Security Services, Inc.	ADT
Alarm Industry Communications Committee	AICC
American Petroleum Institute	API
AmeriTech Corporation	AmeriTech
Assn. of Public-Safety Council	APCO
BellSouth Corporation	BellSouth
Cellnet Data Systems, Inc.	Cellnet
Comsearch	Comsearch
Federal Communications Bar Association	FCBA
GTE	GTE
Industrial Telecommunications Association	ITA
National Spectrum Managers Association	NSMA
Personal Radio Steering Group	PRSG
Radiofone, Inc.	RadioFone
Riechel, Robert M.	Riechel
Small Business in Telecommunications	SBT
Winstar Communications, Inc.	Winstar

**Appendix A, Part 2: List of Commenters (WT Docket 96-188)**

<u>Comment Filer's Name</u>	<u>Abbreviations</u>
American Radio Relay League	AARL
European Communications Radio Office	ECRO
David B. Popkin	Popkin
Radiocommunications Agency	RA
James Sikorski	Sikorski
Stuart Tucker	Tucker
Stephen Kellat	Kellat
Sharon Gartenburg	Gartenburg
Dale Law	Law
James Campbell	Campbell
Daniel Plett	Plett
Eric Hall	Hall
Nick Leggett	Leggett
Sheldon Epstein	Epstein
Phil Kegs	Kegs
Madison Jones	Jones
Mike Branda	Branda
John Schultz	Schultz

Appendix B:

Final Regulatory Flexibility Analysis

## APPENDIX B

### Final Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act ("RFA"),<sup>1</sup> an Initial Regulatory Flexibility Analysis ("IRFA") was incorporated in the *Notice of Proposed Rule Making* in WT Docket No. 98-20. The Commission sought written public comment on the proposals in the *Notice of Proposed Rule Making*, including comment on the IRFA. This Final Regulatory Flexibility Analysis ("FRFA") in this *ULS Report and Order* conforms to the RFA, as amended by the Contract With America Advancement Act of 1996 ("CWAAA"), Pub. L. No. 104-121, 110 Stat. 847 (1996). The Commission received one comment on the IRFA.<sup>2</sup>

#### A. Need for and objectives of this Report and Order.

In this rulemaking, the Commission consolidates, revises, and streamlines its rules governing license application procedures for radio services licensed by the Wireless Telecommunications Bureau (WTB or Bureau).<sup>3</sup> These rule changes will enable WTB to fully implement the Universal Licensing System (ULS), the Commission's new automated licensing system and integrated database for wireless services. The Commission also adopts new consolidated application forms to enable all wireless licensees and applicants to file applications electronically using the ULS. Finally, we establish procedures to ensure a smooth transition from our pre-existing licensing processes to the processes developed for ULS.

#### B. Summary of significant issues raised by public comments in response to the Initial Regulatory Flexibility Analysis (IRFA)

SBT was the only entity to comment directly on our IRFA. It contends we did not assess the impact our proposed rules would have on the following groups: law firms, engineers, consultants, application preparation services and computer repair service firms.<sup>4</sup> These groups typically act as intermediaries for applicants, and are not directly impacted by our rules. In the *ULS Notice*, we

---

<sup>1</sup> See 5 U.S.C. § 603. The RFA, see 5 U.S.C. § 601 et seq., has been amended by the Contract With America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996) ("CWAAA"). Title II of CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 ("SBREFA").

<sup>2</sup> SBT Comments at 19.

<sup>3</sup> WTB licenses the following radio services: Personal Communications Service (PCS), Cellular Radiotelephone Service (cellular), Public Mobile Services other than cellular (e.g., Paging and Radiotelephone, Rural Radiotelephone, Offshore Radiotelephone, Air-Ground Radiotelephone), Fixed Microwave Service, Private Land Mobile Radio Services, Maritime Radio Services, Aviation Radio Services, Amateur Radio Services, and Personal Radio Services. Additionally, WTB processes applications for the Broadcast Auxiliary Service (pursuant to an agreement with the Mass Media Bureau), requests by tower owners for Antenna Structure Registrations, and requests for Commercial Radio Operator Licenses.

<sup>4</sup> SBT Comments at 19.



identified the nature of wireless services that may be affected by the proposed rules.<sup>5</sup> Moreover, we specifically identified proposals in the *ULS Notice* intended to minimize the possible significant economic impact of our rules on small entities.<sup>6</sup> Those groups identified by SBT are encompassed within our estimates of affected entities, as they work on behalf of the actual applicants. In addition, SBT has made racial, constitutional, and equity arguments over the effects of mandatory electronic filing. These arguments have been rendered moot since we decided to forego such a requirement until the ULS is fully tested and operational in all services.<sup>7</sup>

**Mandatory Electronic Filing:** We will require mandatory electronic filing for all services that are licensed by auction. However, we will not impose mandatory filing for any wireless service until (1) July 1, 1999, or (2) six months after application processing in ULS begins for that service, whichever is later. Some commenters urge the Commission to exempt certain services or classes of users from mandatory electronic filing.<sup>8</sup> As discussed, *supra*, we agree that licensees in many services consist primarily of individuals, small businesses, or public agencies that may lack resources to convert quickly to electronic filing. Therefore, manual filing will continue to be an option for applicants and licensees in the following categories: (1) the Part 90 Private Land Mobile Radio services for shared spectrum,<sup>9</sup> spectrum in the public safety pool below 746 MHz, and spectrum in the public safety allocation above 746 MHz (however, Commission-certified frequency coordinators must file electronically); (2) the Part 97 Amateur Radio Service (however, Volunteer Examination Coordinators must file electronically); (3) the Part 95 General Mobile Radio Service and Personal Radio Service (excluding 218-219 MHz licenses); (4) the Part 80 Maritime Services (excluding the VHF 156-162 MHz Public Coast Stations); (5) the Part 87 Aviation Services; (6) Part 13 Commercial Radio Operators; and (7) Part 101 licensees who are also members of any of the foregoing classes. We note, however, that this decision could be subject to future modification.<sup>10</sup>

**Pleadings Associated with Applications:** As discussed, *supra*, we agree with FCBA's concern that some entities may not have computers and the appropriate software to electronically file pleadings. Electronic filing of pleadings in ULS will be optional, not mandatory.<sup>11</sup>

**Letter Requests:** In the *ULS Notice*, we sought comment on whether the public interest would be better served by requiring ULS forms be used rather than accepting letter requests. SBT contends

---

<sup>5</sup> *ULS Notice* at 10,057-67.

<sup>6</sup> *Id* at 10,076.

<sup>7</sup> SBT Comments at 19-23.

<sup>8</sup> *See ULS Report and Order* at ¶¶ 26-28.

<sup>9</sup> ULS will be programmed to recognize entities filing under radio service codes RS, IG and YG as exempt from mandatory electronic filing.

<sup>10</sup> *See ULS Report and Order* at ¶ 27.

<sup>11</sup> *See ULS Report and Order* at ¶¶ 42-44.

letter requests should continue to be an option, especially for those representing themselves.<sup>12</sup> However, we conclude that in order to have a universal licensing system, we must require standardized data fields and have access to the correct and complete data to enter into those fields. Letter requests simply do not provide information in a format that is suitable for ULS. We have taken this action to simplify the process for licensees, reduce time-consuming, resource-intensive review by FCC staff to determine the purpose of STAs and letter requests, and increase the public's access to information.

**On-line Charges:** In the ULS Notice, we stated that a online charge will be applied to those using the ULS to retrieve licensing or mapping information, and that such charges will be limited to the recovery of maintenance costs. License applicants will not be subject to an on-line charge, but will continue to be responsible for normal filing fees.<sup>13</sup> SBT asks that we ensure that such costs are not prohibitive for small business. The determination of any online fees will be addressed in a separate proceeding which will take into consideration the effect of such a charge on small business.

**ULS Accessibility:** SBT also contends that the Commission's web and FTP sites are often not available during the weekends, when small businesses are most likely to access these services.<sup>14</sup> We disagree. Although the sites are sometimes taken down to add new features or to address technical problems, this is done for only a brief time when usage is generally the lowest. For the most part, the public has uninterrupted access to our electronic services 24 hours a day, all year round. As more features are built into the system, applicants and licensees will be able to conduct virtually all of their Commission-related business from their home computers.

C. Description and estimate of the number of small entities to which rules will apply

The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by our rules.<sup>15</sup> The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."<sup>16</sup> In addition, the term "small business" has the same meaning as the term "small business concern" under Section 3 of the Small Business Act.<sup>17</sup> Under the Small Business Act, a "small business concern" is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA).<sup>18</sup>

---

<sup>12</sup> SBT Comments at 18.

<sup>13</sup> ULS Notice at 9675-76, ¶ 5.

<sup>14</sup> SBT Comments at n. 4.

<sup>15</sup> 5 U.S.C. §§ 603(b)(3), 604(a)(3).

<sup>16</sup> 5 U.S.C. § 601(6).

<sup>17</sup> 5 U.S.C. § 601(3) (incorporating by reference the definition of "small business concern" in 15 U.S.C. § 632).

<sup>18</sup> 15 U.S.C. § 632.

The rule changes will affect all small businesses filing new wireless radio service license applications or modifying or renewing an existing license.<sup>19</sup> The Commission estimates the following number of small entities may be affected by the rule changes:

#### 1. Cellular Radiotelephone Service

The Commission has not developed a definition of small entities applicable to cellular licensees. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to radiotelephone companies. This definition provides that a small entity is a radiotelephone company employing no more than 1,500 persons.<sup>20</sup> The size data provided by the SBA does not enable us to make a meaningful estimate of the number of cellular providers which are small entities because it combines all radiotelephone companies with 1000 or more employees.<sup>21</sup> The 1992 Census of Transportation, Communications, and Utilities, conducted by the Bureau of the Census, is the most recent information available. This document shows that only twelve radiotelephone firms out of a total of 1,178 such firms which operated during 1992 had 1,000 or more employees.<sup>22</sup> Therefore, even if all twelve of these firms were cellular telephone companies, nearly all cellular carriers were small businesses under the SBA's definition. The Commission assumes, for purposes of this FRFA that nearly all of the current cellular licensees are small entities, as that term is defined by the SBA.<sup>23</sup>

The most reliable source of information regarding the number of cellular service providers nationwide appears to be data the Commission publishes annually in its *Telecommunications Industry Revenue* report, regarding the Telecommunications Relay Service (TRS). The report places cellular licensees and Personal Communications Service (PCS) licensees in one group. According to the data released in November, 1997, there are 804 companies reporting that they engage in cellular or PCS service.<sup>24</sup> It seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees; however, the Commission is unable at this time to estimate with greater precision the number of cellular service carriers qualifying as small business concerns under the SBA's definition. For purposes of this FRFA, the Commission estimates that there are fewer than 804 small cellular service carriers.

---

<sup>19</sup> See n.3.

<sup>20</sup> 13 C.F.R. § 121.201, Standard Industrial Classification (SIC) Code 4812.

<sup>21</sup> U.S. Small Business Administration 1992 Economic Census Employment Report, Bureau of the Census, U.S. Department of Commerce, (radiotelephone communications industry data adopted by the SBA Office of Advocacy) (SIC Code 4812).

<sup>22</sup> U.S. Bureau of the Census, U.S. Department of Commerce, 1992 Census of Transportation, Communications, and Utilities, UC92-S-1, Subject Series, Establishment and Firm Size, Table 5, Employment Size of Firms: 1992, SIC Code 4812 (issued May 1995).

<sup>23</sup> In addition, the Commission notes that there are 1,758 cellular licenses; however, a cellular licensee may own several licenses.

<sup>24</sup> FCC, Telecommunications Industry Revenue: TRS Fund Worksheet Data, Figure 2 (Number of Carriers Paying Into the TRS Fund by Type of Carrier) (Nov. 1997).

## 2. Broadband and Narrowband PCS

**Broadband PCS.** The broadband PCS spectrum is divided into six frequency blocks designated A through F. The Commission has defined "small entity" in the auctions for Blocks C and F as a firm that had average gross revenues of less than \$40 million in the three previous calendar years.<sup>25</sup> This definition of "small entity" in the context of broadband PCS auctions has been approved by the SBA.<sup>26</sup> The Commission has auctioned broadband PCS licenses in blocks A through F. Of the qualified bidders in the C and F block auctions, all were entrepreneurs. Entrepreneurs was defined for these auctions as entities, together with affiliates, having gross revenues of less than \$125 million and total assets of less than \$500 million at the time the FCC Form 175 application was filed. Ninety bidders, including C block reauction winners, won 493 C block licenses and 88 bidders won 491 F block licenses. For purposes of this FRFA, the Commission assumes that all of the 90 C block broadband PCS licensees and 88 F block broadband PCS licensees, a total of 178 licensees, are small entities.

**Narrowband PCS.** The Commission has auctioned nationwide and regional licenses for narrowband PCS. There are 11 nationwide and 30 regional licensees for narrowband PCS. The Commission does not have sufficient information to determine whether any of these licensees are small businesses within the SBA-approved definition for radiotelephone companies. At present, there have been no auctions held for the major trading area (MTA) and basic trading area (BTA) narrowband PCS licenses. The Commission anticipates a total of 561 MTA licenses and 2,958 BTA licenses will be awarded in the auctions. Given that nearly all radiotelephone companies have no more than 1,500 employees, and that no reliable estimate of the number of prospective MTA and BTA narrowband licensees can be made, the Commission assumes, for purposes of this FRFA, that all of the licenses will be awarded to small entities, as that term is defined by the SBA.

## 3. 220 MHz radio services

The Commission is currently auctioning licenses in the 220-222 MHz band. The license blocks include five licenses in each of the 172 Economic Areas (EAs) and three EA-like areas; five licenses in six Economic Area groupings (EAGs); and three Nationwide licenses, comprising the same territory as all of the EAG combined. A small business for this auction is defined as an entity with average annual gross revenues of not more than \$15 million for the preceding three years;<sup>27</sup> and very small business is a firm with average annual gross revenues of not more than \$3 million for the preceding three years.<sup>28</sup> Given that nearly all radiotelephone companies employ no more than 1,500 employees, for purposes of this FRFA the Commission will consider the approximately 3,800 incumbent licensees as small businesses under the SBA definition.

---

<sup>25</sup> See 47 C.F.R. § 24.720(b)(1).

<sup>26</sup> See Implementation of Section 309(j) of the Communications Act -- Competitive Bidding, PP Docket No. 93-253, *Fifth Report and Order*, 9 FCC Rcd 5532, 5581-84 (1994).

<sup>27</sup> See Implementation of Section 309(j) of the Communications Act -- Competitive Bidding, *Third Report and Order and Fifth Notice of Proposed Rulemaking*, 12 FCC Rcd 10943, 11068-69, ¶ 291 (1997).

<sup>28</sup> 47 C.F.R. § 90.1021.

#### 4. Paging

The Commission has proposed a two-tier definition of small businesses in the context of auctioning geographic area paging licenses in the Common Carrier Paging and exclusive Private Carrier Paging services. Under the proposal, a small business will be defined as either (1) an entity that, together with its affiliates and controlling principals, has average gross revenues for the three preceding years of not more than \$3 million; or (2) an entity that, together with affiliates and controlling principals, has average gross revenues for the three preceding calendar years of not more than \$15 million.<sup>29</sup> Since the SBA has not yet approved this definition for paging services, the Commission will utilize the SBA definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons. At present, there are approximately 24,000 Private Paging licenses and 74,000 Common Carrier Paging licenses. According to *Telecommunications Industry Revenue* data, there were 172 "paging and other mobile" carriers reporting that they engage in these services.<sup>30</sup> Consequently, the Commission estimates that there are fewer than 172 small paging carriers. The Commission estimates that the majority of private and common carrier paging providers would qualify as small entities under the SBA definition.

#### 5. Air-Ground radiotelephone service

The Commission has not adopted a definition of small business specific to the Air-Ground radiotelephone service.<sup>31</sup> Accordingly, the Commission will use the SBA definition applicable to radiotelephone companies, *i.e.*, an entity employing no more than 1,500 persons. There are approximately 100 licensees in the Air-Ground radiotelephone service, and the Commission estimates that almost all of them qualify as small entities under the SBA definition.

#### 6. Specialized Mobile Radio (SMR)

The Commission awards bidding credits in auctions for geographic area 800 MHz and 900 MHz SMR licenses to firms that had revenues of no more than \$15 million in each of the three previous calendar years. This regulation defining "small entity" in the context of 900 MHz SMR has been approved by the SBA. The Commission does not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of no more than \$15 million. One firm has over \$15 million in revenues. The Commission assumes for purposes of this FRFA that all of the remaining existing extended implementation authorizations are held by small entities, as that term is defined by the SBA. The Commission has held auctions for geographic area licenses in the 900 MHz SMR band, and recently completed an auction for geographic area 800 MHz SMR licenses. There were 60 winning bidders who qualified as small entities in the 900 MHz auction. In the recently concluded

---

<sup>29</sup> See Implementation of Section 309(j) of the Communications Act --Competitive Bidding, *Second Report and Order and Further Notice of Proposed Rulemaking*, 12 FCC Rcd 2732, 2811-12, ¶¶178-81 (1997).

<sup>30</sup> FCC, Telecommunications Industry Revenue: TRS Fund Worksheet Data, Figure 2 (Number of Carriers Paying Into the TRS Fund by Type of Carrier) (Nov. 1997).

<sup>31</sup> Air-Ground radiotelephone service is defined in section 22.99 of the Commission's rules, 47 C.F.R. § 22.99.

800 MHz SMR auction there were 524 licenses won by winning bidders, of which 38 licenses were won by small or very small entities.

#### 7. Private Land Mobile Radio Services (PLMR)

PLMR systems serve an essential role in a range of industrial, business, land transportation, and public safety activities. The Commission has not developed a definition of small entities specifically applicable to PLMR licensees due to the vast array of PLMR users. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to radiotelephone companies. This definition provides that a small entity is a radiotelephone company employing no more than 1,500 persons.<sup>32</sup> For the purpose of determining whether a licensee is a small business as defined by the SBA, each licensee would need to be evaluated within its own business area. The Commission is unable at this time to estimate the number of small businesses which could be impacted by the rules. The Commission's 1994 Annual Report on PLMRs indicates that at the end of fiscal year 1994 there were 1,087,267 licensees operating 12,481,989 transmitters in the PLMR bands below 512 MHz. Any entity engaged in a commercial activity is eligible to hold a PLMR license, therefore these proposed rules could potentially impact every small business in the United States.

#### 8. Aviation and Marine radio service

Small entities in the aviation and marine radio services use a marine very high frequency (VHF) radio, any type of emergency position indicating radio beacon (EPIRB) and/or radar, a VHF aircraft radio, and/or any type of emergency locator transmitter (ELT). The Commission has not developed a definition of small entities specifically applicable to these small businesses. Therefore, the applicable definition of small entity is the definition under the SBA rules. Most applicants for individual recreational licenses are individuals.<sup>33</sup> Approximately 581,000 ship station licensees and 131,000 aircraft station licensees operate domestically and are not subject to the radio carriage requirements of any statute or treaty. Therefore, for purposes of the evaluations and conclusions in this FRFA, the Commission estimates that there may be at least 712,000 potential licensees which are individuals or are small entities, as that term is defined by the SBA.

#### 9. Offshore radiotelephone service

This service operates on several ultra high frequency (UHF) TV broadcast channels that are not used for TV broadcasting in the coastal area of the states bordering the Gulf of Mexico. At present, there are approximately 55 licensees in this service. The Commission is unable at this time to estimate the number of licensees that would qualify as small entities under the SBA definition for radiotelephone communications. The Commission assumes, for purposes of this FRFA, that all of the 55 licensees are small entities, as that term is defined by the SBA.

#### 10. General Wireless Communication Service

---

<sup>32</sup> 13 C.F.R. § 121.201, Standard Industrial Classification (SIC) Code 4812.

<sup>33</sup> The Commission no longer requires individual licenses.

This service was created by the Commission on July 31, 1995<sup>34</sup> by transferring 25 MHz of spectrum in the 4660-4685 MHz band from the federal government to private sector use. The Commission sought and obtained SBA approval of a refined definition of "small business" for GWCS.<sup>35</sup> According to this definition, a small business is any entity, together with its affiliates and entities holding controlling interests in the entity, that has average annual gross revenues over the three preceding years that are not more than \$40 million.<sup>36</sup> The Commission will offer 875 geographic area licenses, based on Economic Areas, for GWCS. In estimating the number of small entities that may participate in the GWCS auction, the Commission anticipates that the makeup of current wireless services licensees is representative of future auction winning bidders.

#### 11. Fixed Microwave services

Microwave services includes common carrier fixed,<sup>37</sup> private operational fixed,<sup>38</sup> and broadcast auxiliary radio services.<sup>39</sup> At present, there are 22,015 common carrier fixed licensees and approximately 61,670 private operational fixed licensees and broadcast auxiliary radio licensees in the microwave services. The Commission has not yet defined a small business with respect to microwave services. For purposes of this FRFA, the Commission will utilize the SBA definition applicable to radiotelephone companies, *i.e.*, an entity with less than 1,500 persons. The Commission estimates that for purposes of this FRFA all of the Fixed Microwave licensees (excluding broadcast auxiliary radio licensees) would qualify as small entities under the SBA definition for radiotelephone communications.

#### 12. Commercial Radio Operators (restricted and commercial)

There are several types of commercial radio operator licenses. Individual licensees are tested

---

<sup>34</sup> See Allocation of Spectrum Below 5 GHz Transferred from Federal Government Use, ET Docket No. 94-32, *Second Report and Order*, 11 FCC Rcd 624 (1995).

<sup>35</sup> See Letter to Daniel B. Phythyon, Chief, Wireless Telecommunications Bureau, Federal Communications Commission, from Aida Alvarez, Administrator, U.S. Small Business Administration, dated May 19, 1998.

<sup>36</sup> See 47 C.F.R. § 26.4.

<sup>37</sup> 47 C.F.R. § 101 *et seq.* (formerly Part 21 of the Commission's rules).

<sup>38</sup> Persons eligible under Parts 80 and 90 of the Commission's rules can use private Operational Fixed Microwave services. See, 47 C.F.R. § 80.1 *et seq.*, 47 C.F.R. § 90.1 *et seq.* Stations in this service are called operational-fixed to distinguish them from common carrier and public fixed stations. Only the licensee may use an operational-fixed station, and only for communications related to the licensee's commercial, industrial, or safety operations.

<sup>39</sup> Auxiliary Microwave Service is governed by Part 74 of Title 47 of the Commission's rules. See 47 C.F.R. § 74.1 *et seq.* Available to licensees of broadcast stations and to broadcast and cable network entities, broadcast auxiliary microwave stations are used for relaying broadcast television signals from the studio to the transmitter, or between two points, such as a main studio and an auxiliary studio. The broadcast auxiliary microwave services also include mobile TV pickups which relay signals from a remote location back to the studio.

by Commercial Operator License Examination Managers (COLEMs).<sup>40</sup> COLEMs file the applications on behalf of the licensee. The Commission has not developed a definition for a small business or small organization that is applicable for COLEMs. The RFA defines the term "small organization" as meaning "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field..."<sup>41</sup> The Commission's rules do not specify the nature of the entity that may act as a COLEM.<sup>42</sup> However, all of the COLEM organizations would appear to meet the RFA definition for small organizations.

### 13. Amateur Radio services

Amateur Radio service licensees are coordinated by Volunteer Examiner Coordinators (VECs).<sup>43</sup> The Commission has not developed a definition for a small business or small organization that is applicable for VECs. The RFA defines the term "small organization" as meaning "any not-for-profit enterprise which is independently owned and operated and is not dominant in its field..."<sup>44</sup> The Commission's rules do not specify the nature of the entity that may act as a VEC. All of the sixteen VEC organizations would appear to meet the RFA definition for small organizations.

### 14. Personal Radio services

Personal radio services provide short-range, low power radio for personal communications, radio signaling, and business communications not provided for in other services. These services include citizen band (CB) radio service, general mobile radio service (GMRS), radio control radio

---

<sup>40</sup> Currently there are seven COLEMs. Each COLEM is required to offer testing nationwide. To accomplish this each COLEM subcontracts with testing centers and schools across the country to administer tests.

<sup>41</sup> 5 U.S.C. § 601(4).

<sup>42</sup> A COLEM is an organization that has entered into a written agreement with the FCC to coordinate the examinations for commercial operators. The COLEM organization must agree to coordinate the examinations for one or more types of commercial radio operator licenses and/or endorsements, agree to assure that every examinee is registered without regard to race, sex, religion, national origin, or membership (or lack thereof) in any organization, and cooperate in maintaining examination records available to the FCC and agree not to administer an examination to an employee, relative, or relative of an employee. *See* 47 C.F.R. § 13.213.

<sup>43</sup> ARRL/VEC and the W5YI-VEC are components of organizations that publish materials marketed to persons for the purpose of preparing for passing the examinations required for the grant of an amateur operator license. This publishing activity is separate from their VEC activity. A VEC is an organization that has entered into a written agreement with the FCC to coordinate the examinations for amateur operator licenses. The examinations are prepared and administered by tens of thousands of amateur operators who serve as Volunteer Examiners. The VEC organization must exist for the purpose of furthering the amateur service, be capable of service as a VEC in at least one of the thirteen VEC regions, agree to coordinate the examinations, agree to assure that every examinee is registered without regard to race, sex, religion, national origin or membership in any amateur service organization, and cooperate in maintaining the question pools for VECs. *See* 47 C.F.R. §§ 97.521 and 97.523.

<sup>44</sup> 5 U.S.C. § 601(4).



service, and family radio service (FRS).<sup>45</sup> To the extent any of these licensees may be small entities under the SBA definition, the Commission is unable at this time to estimate the exact number.

#### 15. Public Safety radio services and governmental entities

Public Safety radio services include police, fire, local governments, forestry conservation, highway maintenance, and emergency medical services.<sup>46</sup> There are a total of approximately 127,540 licensees within these services. Governmental entities as well as private businesses comprise the licensees for these services. All governmental entities with populations of less than 50,000 fall within the definition of a small business.<sup>47</sup> There are approximately 37,566 governmental entities with populations of less than 50,000.<sup>48</sup> The RFA also includes small governmental entities as a part of the regulatory flexibility analysis.<sup>49</sup> The definition of a small governmental entity is one with a population of less than 50,000.<sup>50</sup> There are 85,006 governmental entities in the nation.<sup>51</sup> This number includes such entities as states, counties, cities, utility districts, and school districts. There are no figures available on what portion of this number has populations of fewer than 50,000; however, this number

---

<sup>45</sup> In the Citizens Band (CB) Radio Service, General Mobile Radio Service (GMRS), Radio Control (R/C) Radio Service, and Family Radio Service (FRS) are governed by subpart D, subpart A, subpart C, and subpart B, respectively, of Part 95 of the Commission's rules. 47 C.F.R. §§ 95.401 through 95.428; 47 C.F.R. §§ 95.1 through 95.181; 47 C.F.R. §§ 95.201 through 95.225; 47 C.F.R. §§ 95.191 through 95.194.

<sup>46</sup> With the exception of the special emergency service, these services are governed by subpart B of part 90 of the Commission's rules. 47 C.F.R. §§ 90.15 through 90.27. The police service includes 26,608 licensees that serve state, county and municipal enforcement through telephony (voice), telegraphy (code) and teletype and facsimile (printed material). The fire radio service includes 22,677 licensees comprised of private volunteer or professional fire companies as well as units under governmental control. The local government service that is presently comprised of 40,512 licensees that are state, county or municipal entities that use the radio for official purposes not covered by other public safety services. There are 7,325 licensees within the forestry service which is comprised of licensees from state departments of conservation and private forest organizations who set up communications networks among fire lookout towers and ground crews. The 9,480 state and local governments are licensed to highway maintenance service provide emergency and routine communications to aid other public safety services to keep main roads safe for vehicular traffic. The 1,460 licensees in the Emergency Medical Radio Service (EMRS) use the 39 channels allocated to this service for emergency medical service communications related to the actual delivery of emergency medical treatment. 47 C.F.R. §§ 90.15 through 90.27. The 19,478 licensees in the special emergency service include medical services, rescue organizations, veterinarians, handicapped persons, disaster relief organizations, school buses, beach patrols, establishments in isolated areas, communications standby facilities and emergency repair of public communication facilities. 47 C.F.R. §§ 90.33 through 90.55.

<sup>47</sup> 5 U.S.C. § 601(5).

<sup>48</sup> U.S. Department of Commerce, Bureau of Census, 1992 Census of Governments.

<sup>49</sup> See 5 U.S.C. § 601(5) (including cities, counties, towns, townships, villages, school districts, or special districts).

<sup>50</sup> *Id.*

<sup>51</sup> 1992 Census of Governments, Bureau of the Census, U.S. Department of Commerce.

includes 38,978 counties, cities, and towns and of those, 37,566 or 96 percent, have populations of fewer than 50,000.<sup>52</sup> The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, the Commission estimates that 96 percent or 81,600 are small entities that may be affected by our rules.

#### 16. Rural Radiotelephone Service

The Commission has not adopted a definition of small entity specific to the Rural Radiotelephone Service.<sup>53</sup> A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio Systems (BETRS).<sup>54</sup> The Commission will use the SBA definition applicable to radiotelephone companies; *i.e.*, an entity employing no more than 1,500 persons. There are approximately 1,000 licensees in the Rural Radiotelephone Service, and the Commission estimates that almost all of them qualify as small entities under the SBA definition.

#### 17. Marine Coast Service

On December 3, 1998, the Commission plans to auction Public Coast licenses in the 157.1875-157.4500 MHz (ship transmit) and 161.775-162.0125 MHz (coast transmit) bands. For purposes of this auction, the Commission defines a "small" business as an entity that, together with controlling interests and affiliates, have average gross revenues for the preceding three years not to exceed \$15 million dollars. A "very small" business is one that, together with controlling interests and affiliates, have average gross revenues for the preceding three years not to exceed \$3 million dollars.<sup>55</sup> There are approximately 10,672 licensees in the Marine Coast Service, and the Commission estimates that almost all of them qualify as small under the SBA definition.

#### 18. Wireless Communications Services (WCS)

WCS is a wireless service, which can be used for fixed, mobile, radiolocation, and digital audio broadcasting satellite uses. The Commission defined "small business" for the WCS auction as an entity with average gross revenues of \$40 million for each of the three preceding years.<sup>56</sup> The Commission auctioned geographic area licenses in the WCS service. There were seven winning bidders who qualified as very small business entities and one small business entity in the WCS auction. Based on this information, the Commission concludes that the number of geographic area WCS licensees affected include these eight entities.

---

<sup>52</sup> *Id.*

<sup>53</sup> Rural Radiotelephone Service is defined in section 22.99 of the Commission's rules, 47 C.F.R. § 22.99.

<sup>54</sup> BETRS is defined in sections 22.757 and 22.729 of the Commission's rules, 47 C.F.R. §§ 22.757, 22.729.

<sup>55</sup> Amendment of the Commission's Rules Concerning Maritime Communications, *Third Report and Order and Memorandum Opinion and Order* (rel. July 9, 1998) PR Docket No. 92-257, FCC 98-151

<sup>56</sup> See Amendment of the Commission's Rules to Establish Part 27, the Wireless Communications Service ("WCS"), GN Docket 96-228, *Report and Order*, 12 FCC Rcd 10785 (1997).

D. Description of the projected reporting, recordkeeping, and other compliance requirements

All wireless radio services will be subject to processing through the ULS rules. Under these rules, all new wireless radio services license applications will be processed through ULS using one or more of the new forms. In addition, any modification to an existing license will also use the new forms and will be entered and processed in the ULS. Other notifications that are required by the final rules, as outlined in the *ULS Report and Order*, will also be filed with the new standard forms and processed through ULS.<sup>57</sup> As noted, we expect that once the ULS is implemented the overall compliance burdens associated with these forms will be reduced.<sup>58</sup>

Under the final rules, each applicant or licensee must submit the appropriate application form depending on the purpose of the application.<sup>59</sup> Electronic filing through the ULS should be easier for applicants than the current system. The ULS will prompt the applicant for the necessary information and will provide interactive error messages if information is not filed correctly. The system will allow the applicant to correct their applications prior to submitting them, saving time and processing steps for the FCC and the applicants. The Commission notes that electronic filing will require a modem equipped computer to file interactively through the FCC private wide area network, which may be burdensome for some filers.

The ULS was designed to identify each individual licensee by their taxpayer identification number (TIN) assigned to the entity or individual (social security number will be used in the case of an individual filing for a license). The TIN is required by licensees pursuant to the Debt Collection Improvement Act of 1996.<sup>60</sup> All existing licensees will be required to identify all of their call signs and their TIN.<sup>61</sup> The system will assign a unique sequential identification number to each entity or individual. This number will be used instead of the TIN for public queries to the ULS database. Uniquely identifying entities and associating their license records to the entity will eliminate the data collection requirement for modifications and new license applications that are filed electronically through the ULS.

---

<sup>57</sup> The Commission proposes to utilize the new Form 602, developed for ULS, as the common form on which all wireless applicants and licensees submit required ownership information in connection with any application or licensing change. See *ULS Notice*, section III.D.3.

<sup>58</sup> See *ULS Notice* at 9682, ¶ 20.

<sup>59</sup> FCC Forms 601 (Long-Form or FCC Application for Wireless Telecommunication Bureau Radio Service Authorization), 602 (FCC Ownership Disclosure Information for the Wireless Telecommunications Services), 603 (FCC Wireless Telecommunications Bureau Application for Assignment of Authorization), 604 (FCC Wireless Telecommunications Bureau Application for Transfer of Control) and 605 (Quick-Form Application for Authorization in the Ship, Aircraft, Amateur, Restricted and Commercial Operator, and General Mobile Radio Services).

<sup>60</sup> Omnibus Consolidation Rescissions and Appropriations Act of 1996, Pub. Law No. 104-134, Chapter 10, 110 Stat 1321, 2321-1358 (1996) (DCIA).

<sup>61</sup> See FCC Form 606 (FCC Wireless Telecommunications Bureau Universal Licensing System-TIN/Call Sign Registration), OMB Control Number 3060-0795.

E. Steps taken to minimize significant economic impact on small entities, and significant alternatives considered:

As noted in the *ULS Report and Order*, the development of the ULS will greatly reduce the cost of preparing wireless applications and pleadings, while increasing the speed of the licensing process. We expect that these changes will benefit all, including small entities.

1. Electronic Filing and Consolidated Application Forms. In services that do not require extensive technical data, such as Amateur, Maritime, Aviation, Commercial Operators, and GMRS, the Commission implements a quick form to minimize the economic impact on small entities in these services. In addition, the forms have been developed to ensure that applicants are not required to duplicate information that has been already filed with the Commission. The Commission has also eliminated the current copy and microfiche requirements for electronically filed applications.

2. Auction Long-Form Application Submissions. The Commission allows winning bidders to file a single long-form application to cover all markets. Elimination of separate filing requirements will lift the administrative burden to small businesses of having to file separate long-form applications for each license won in the auction.

3. Filings of Pleadings. The Commission permits, but does not require, pleadings to be filed electronically. Manually filed pleadings will be scanned so that all pleadings will be easily accessible to the public. Electronic filing through the ULS should be easier for applicants than the current system because the ULS will prompt the applicant for the necessary information and will provide interactive error messages if information is not filed correctly. ULS will allow the applicant to correct their applications prior to submitting them. This system will allow all interested parties, including small entities, easy access to pleadings that are filed in connection with applications and licenses.

4. Standardization of Major and Minor Filing Rules. The Commission consolidates major and minor filing standards to both amendments of pending applications and to modifications of existing licenses. The current fragmented system is confusing for applicants and licensees, including small entities, because they are required to keep track of different procedures for different radio services. Licensees, especially small entities, will find it easier and more convenient to have all standards in one place in the rules.

5. Filing of Multiple Modifications. The Commission adopts a unified approach to the filing of multiple modification applications: if a modification application is pending regarding a given station parameter, and the licensee decides to elaborate upon or change that request with an additional request to modify the same or a related parameter, the document filed to effect that change will be automatically deemed an amendment to the modification, rather than a separate modification application. This will prevent applicants from filing conflicting modification requests and will prevent the Commission from erroneously granting or dismissing modification applications because they were processed out of sequence.

6. Construction Notification Requirements. The Commission will send notifications to licensees by ULS and mail before their construction or coverage deadlines. Notifications of construction or coverage would be accepted either electronically or manually. If a licensee fails to file the required notification of completion of construction or satisfaction of the coverage or substantial service requirements, the ULS would send a letter terminating the authorization.

7. Annual Ownership Requirements. The Commission proposes to require submission of annual ownership information. Private mobile radio services (PMRS) licensees, while subject to some alien ownership restrictions, *i.e.*, they may not be granted to or held by a foreign government or a representative of a foreign government,<sup>62</sup> are not subject to most of the other restrictions placed on commercial mobile radio services (CMRS) licensees. Accordingly, PMRS licensees and private fixed microwave licensees have not previously been required to submit detailed ownership information. Here we have retained this practice of requiring a less extensive showing for PMRS. The Commission requires PMRS licensees to certify their status with respect to foreign government ownership or ownership by a representative of a foreign government each time they submit a Form 601.

F. Report to Congress

The Commission shall send a copy of the Order, including this FRFA, in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996. *See* 5 U.S.C. § 801(a)(1)(A). A copy of the Order and this FRFA (or summary thereof) will be published in the Federal Register. *See* 5 U.S.C. § 604(b). A copy of the Order and this FRFA will also be sent to the Chief Counsel for Advocacy of the Small Business Administration.

---

<sup>62</sup> 47 U.S.C. § 310(a).

## Appendix C:

ULS Forms (Forms 601, 602, 603, and 605)

**Information and Instructions**

**FCC Application for Wireless Telecommunications Bureau  
Radio Service Authorization**

**NOTICE TO INDIVIDUALS REQUIRED BY THE PRIVACY ACT OF 1974 AND  
THE PAPERWORK REDUCTION ACT OF 1995**

We have estimated that each response to this collection of information will take on average 1.25 hours. Our estimate includes the time to read the instructions, look through existing records, gather and maintain required data, and actually complete and review the form or response. If you have any comments on this estimate, or on how we can improve the collection and reduce the burden it causes you, please write the Federal Communications Commission, AMD-PERM, Washington, DC 20554, Paperwork Reduction Project (3060-0798). We will also accept your comments via the Internet if you send them to [jboley@fcc.gov](mailto:jboley@fcc.gov). *Please do not send completed application forms to this address.*

You are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection unless it displays a currently valid OMB control number with this notice. This collection has been assigned OMB control number 3060-0798.

The FCC is authorized under the Communications Act of 1934, as amended, to collect the personal information we request in this form. We will use the information you provide to determine whether approving this application is in the public interest. If we believe there may be a violation or potential violation of a statute, FCC regulation, rule or order, your application may be referred to the Federal, state, or local agency responsible for investigating, prosecuting, enforcing or implementing the statute, rule, regulation or order. In certain cases, the information in your application may be disclosed to the Department of Justice or a court or adjudicative body when (a) the FCC; or (b) any employee of the FCC; or (c) the United States Government, is a party to a proceeding before the body or has an interest in the proceeding.

If you owe a past due debt to the Federal government, the Taxpayer Identification Number (*i.e.*, your Employer Identification Number or Social Security Number) and other information you provide may also be disclosed to the Department of Treasury Financial Management Service, other federal agencies and/or your employer to offset your salary, IRS tax refund or other payments to collect that debt. The FCC may also provide this information to these agencies through the matching of computer records when authorized.

In addition, all information provided in this form, except Taxpayer Identification Number, will be available for public inspection. If you do not provide the information we request on the form, the FCC may delay processing of your application or may return your application without action.

This notice is required by the Privacy Act of 1974, Public Law 93-579, December 31, 1974, 5 U.S.C. Section 552a(e)(3) and the Paperwork Reduction Act of 1995, Public Law 104-13, October 1, 1995, 44 U.S.C. 3507.



# Overview

## **Purpose of Form**

Form FCC 601 is a multi-purpose form. It is used to apply for an authorization to operate radio stations, amend pending applications, modify existing licenses, and perform a variety of other miscellaneous transactions (refer to page 8 and 9 of these instructions for a detailed list) in the Wireless Telecommunications Bureau (WTB) radio services. The WTB radio services that use this form include Public Mobile Services, Personal Communications Services, General Wireless Communications Services, Private Land Mobile Radio Services, Broadcast Auxiliary Services, Fixed Microwave Services, Maritime Services (excluding ships), and Aviation Services (excluding aircraft).

The purpose of this form is to collect data pertaining to the proposed request. This data is used by the FCC to determine whether the public interest would be served by a grant of the request.

Form FCC 601 replaces Forms FCC 313, 313R, 402, 402R, 405, 405A, 406, 415, 464, 464A, 489, 494, 503, 574, 574R, 600, and 701 for all purposes.

## **Introduction**

Form FCC 601 is a multi-part form comprising a main form and several optional schedules. Each application, amendment, modification, or other request must contain only one Main Form (pages 1, 2, and 3) but may contain as few or as many of the optional schedules as necessary.

## **Main Form**

The purpose of the Main Form is to obtain information sufficient to identify the filer, establish the filer's basic eligibility and qualifications, classify the filing, and determine the nature of the proposed service. The Main Form also contains the required certifications and signature block. The Main Form is required for every application, amendment, and modification filed on Form FCC 601.

## **Schedules**

The purposes of the optional schedules are as follows:

### **Schedule A**

The Schedule for Changes Affecting Multiple Call Signs or File Numbers is used to submit global changes to items on the FCC 601 Main Form that affect either multiple call signs or multiple file numbers.

### **Schedule B**

The Schedule for Geographically Licensed Services is used to apply for the required license authorization when the applicant has been determined to be the winning bidder at the close of an FCC auction.

### **Schedule C**

[Reserved for future use]

### **Schedule D**

The Schedule for Fixed Station Locations and Antenna Structures is used to supply technical information for fixed transmit station locations and antenna structures. It is also used by auction winners that must file technical data for international coordination or for an environmental assessment. File as many schedules as necessary to describe all fixed station locations, including antenna structures. This schedule is used in conjunction with Technical Data Schedules F, G, H, and J.

### **Schedule E**

The Schedule for Mobile, Temporary Fixed, and 6.1 Meter Control Station Locations is used to supply technical information for mobile transmit locations, temporary fixed stations, and 6.1 meter control stations. File as many schedules as necessary to describe all mobile transmit locations, temporary fixed stations, and 6.1 meter control stations. This schedule is used in conjunction with Technical Data Schedules G, H, and J.

### **Schedule F**

The Technical Data Schedule for the Cellular and Air-ground (Commercial Aviation) Radiotelephone Services (Part 22) is used for site-specific applications and amendments in the cellular and air-ground radiotelephone services. It is also used by auction winners that must file site-specific technical data for international coordination of a particular site. Schedule F is used to provide technical parameters of the facilities. This schedule is used in conjunction with Location Schedule D.

### **Schedule G**

The Technical Data Schedule for the Maritime and Aviation Services (Parts 80 and 87) is used for site-specific applications and amendments in the maritime and aviation services. It is also used by auction winners that must file site-specific technical data for international coordination of a particular site. Schedule G is used to provide technical parameters of the facilities. This schedule is used in conjunction with Location Schedules D and E.

### **Schedule H**

The Technical Data Schedule for the Private Land Mobile and Land Mobile Broadcast Auxiliary Radio Services (Parts 90 and 74) is used for site-specific applications and amendments in the private land and broadcast auxiliary radio services. It is also used by auction winners that must file site-specific technical data for international coordination of a particular site. Schedule H is used to provide technical parameters of the facilities. This schedule is used in conjunction with Location Schedules D and E.



**Schedule I**

The Technical Data Schedule for the Fixed Microwave and Microwave Broadcast Auxiliary Services (Parts 101 and 74) is used for site-specific applications and amendments in the fixed microwave and microwave broadcast auxiliary services. It is also used by auction winners that must file site-specific technical data for international coordination or for an environmental assessment of a particular site. Schedule I is used to provide technical parameters of the facilities.

**Schedule J**

The Technical Data Schedule for the Paging, Rural, Air-ground, (General Aviation), and Offshore Radiotelephone Services (Part 22) is used for site-specific applications and amendments in the paging, rural, air-ground, and offshore radiotelephone services. It is also used by auction winners that must file site-specific technical data for international coordination of a particular site. Schedule J is used to provide technical parameters of the facilities. This schedule is used in conjunction with Location Schedules D and E.

**Schedule K**

The Schedule for Required Notifications for Wireless Services is used to notify the FCC that, within the required time period, coverage or construction requirements have been satisfied, or compliance with yearly station construction commitments for licensees with approved extended implementation plans has been met. It is also used in the paging radiotelephone services to notify the FCC of a request for regular authorization for facilities previously operating under developmental authority.

**Schedule L**

The Schedule for Extension of Time Requests for Wireless Services is used to request additional time to either satisfy coverage or construction requirements.

**Schedules Required**

If you are applying for initial authorization in a market based service, you must file Schedule B in conjunction with your Main Form application.

If you are applying for a site-specific authorization in a market based service to fulfill environmental assessment requirements, file along with your Main Form Application, Schedule I for Microwave Radio Services or Schedule D for all other radio services.

If you are applying for a site-specific authorization in a market based service to fulfill international coordination requirements, file along with your Main Form Application, Schedule I for Microwave Radio Services or Schedule D and the appropriate technical data schedule for all other radio services.

If you are applying for authorization in a site licensed service which requires you to report technical data, file along with your Main Form the technical data schedule appropriate to the service for which you are applying:

Service	ULS Form/Schedule Title
All Geographically Licensed Services (Initial Application)	FCC 601 Main Form - WTB Radio Service Authorization Schedule B - Schedule for Geographically Licensed Services
Geographically Licensed Service (site-specific environmental assessment)	FCC 601 Main Form - WTB Radio Service Authorization Schedule I (Microwave Radio Services) Schedule D (all other Radio Services) - Schedule for Fixed Station Locations and Antenna Structures
Geographically Licensed Service (site-specific international coordination)	FCC 601 Main Form - WTB Radio Service Authorization Schedule I (Microwave Radio Services) Schedule D and appropriate technical data schedule as described below (all other Radio Services)
Cellular and Commercial Air-ground Services (Part 22)	FCC 601 Main Form - WTB Radio Service Authorization Schedule D - Schedule for Fixed Station Locations and Antenna Structures Schedule F - Technical Data Schedule for the Cellular and Air-ground (Commercial Aviation) Radiotelephone Services (Part 22)
Land Mobile - Part 22 Site-Specific Services	FCC 601 Main Form - WTB Radio Service Authorization Schedule D - Schedule for Fixed Station Locations and Antenna Structures Schedule E - Schedule for Mobile, Temporary Fixed, and 6.1 Meter Control Station Locations Schedule J - Technical Data Schedule for Paging, Rural, Air-ground (General Aviation), and Offshore Radiotelephone Services (Part 22)
Land Mobile - Part 90 Site-Specific Services	FCC 601 Main Form - WTB Radio Service Authorization Schedule D - Schedule for Fixed Station Locations and Antenna Structures Schedule E - Schedule for Mobile, Temporary Fixed, and 6.1 Meter Control Station Locations Schedule H - Technical Data Schedule for the Private Land Mobile and Broadcast Auxiliary Land Mobile Radio Services (Parts 90 and 74)
Microwave - Part 101 Site-Specific Services	FCC 601 Main Form - WTB Radio Service Authorization Schedule I - Technical Data Schedule for the Fixed Microwave and Microwave Broadcast Auxiliary Services (Parts 101 and 74)

<b>Service</b>	<b>ULS Form/Schedule Title</b>
Maritime Coast/Aviation Ground Services (Parts 80 and 87)	FCC 601 Main Form - WTB Radio Service Authorization Schedule D - Schedule for Fixed Station Locations and Antenna Structures Schedule E - Schedule for Mobile, Temporary Fixed, and 6.1 Meter Control Station Locations Schedule G - Technical Data Schedule for the Maritime and Aviation Services (Parts 80 and 87)
Broadcast Auxiliary - Land Mobile (Part 74)	FCC 601 Main Form - WTB Radio Service Authorization Schedule D - Schedule for Fixed Station Locations and Antenna Structures Schedule E - Schedule for Mobile, Temporary Fixed, and 6.1 Meter Control Station Locations Schedule H - Technical Data Schedule for the Private Land Mobile and Broadcast Auxiliary Land Mobile Radio Services (Parts 90 and 74)
Broadcast Auxiliary - Microwave (Part 74)	FCC 601 Main Form - WTB Radio Service Authorization Schedule I - Technical Data Schedule for the Fixed Microwave and Microwave Broadcast Auxiliary Radio Services (Parts 101 and 74)
Notification of: Completion of Coverage Requirements Completion of Construction Requirements Compliance with yearly station construction commitments for licensees with approved extended implementation plans Developmental Paging Authorization to a Regular Authorization	FCC 601 Main Form - WTB Radio Service Authorization Schedule K - Schedule for Required Notifications for Wireless Services
Extension of Time Request for: Completion of Coverage Requirements Completion of Construction Requirements	FCC 601 Main Form - WTB Radio Service Authorization Schedule L - Schedule for Extension of Time Requests for Wireless Services

## **General Filing Instructions**

### **Information Current and Complete**

Information filed with the FCC must be kept current and complete. The applicant must notify the FCC regarding any substantial and significant changes in the information furnished in the application(s). See Section 1.65 of the Commission's rules.

### **Applicable Rules and Regulations**

Applicants should obtain the relevant parts of the FCC's rules in 47 CFR. Copies of 47 CFR may be purchased from the Superintendent of Documents; Government Printing Office; Washington, DC 20402; (202) 512-1800. Refer also to the Government Printing Office's Website at <http://www.access.gpo.gov>. Some FCC rules require applicants to attach one or more exhibits to an application in addition to the information requested in the application form.

### **Processing Fee and Filing Locations**

A processing fee may be required with this form. To determine the required fee amount, refer to Subpart G of Part 1 of the Code of Federal Regulations (47 CFR Part 1, Subpart G) and the current Wireless Telecommunications Bureau Fee Filing Guide. For assistance with fees applicable to the radio services governed by the FCC's rules, call (202) 418-0220 or 1-888-CALL-FCC (225-5322). The Fee Filing Guide can be downloaded from the FCC's Internet site @ <http://www.fcc.gov/fees/wtbguide.html> or obtained by calling the FCC's Forms Distribution Center at 1-(800) 418-3676.

Non-renewal paper applications requiring a fee must be submitted to Federal Communications Commission, Wireless Bureau Applications, P. O. Box 358130, Pittsburgh, PA, 15251-5130. Renewal paper applications must be submitted to Federal Communications Commission, Wireless Bureau Applications, P. O. Box 358245, Pittsburgh, PA, 15251-5245.

Non-feeable paper applications should be mailed to Federal Communications Commission, 1270 Fairfield Road, Gettysburg, PA 17325-7245. (If this application is filed as a result of an auction, please specify the Auction Number as indicated in your bidder's package or Public Notice.)

### **Packages**

If filing manually, the Main Form and the applicable schedules should be submitted as one package, stapled in the upper left corner. The Main Form should be first with the schedules attached in alphabetical order. Applicants filing electronically are not required to submit paper copies.

### **Paper Copies**

The number of paper copies of this application required to be filed is one original. Applicants filing electronically are not required to submit paper copies.

### **Exhibits**

Each document required to be filed as an exhibit should be current as of the date of filing. Each page of every exhibit must be identified with the number or letter of the exhibit, the number of the page of the exhibit, and the total number of pages of the exhibit. If material is to be incorporated by reference, see the instruction on incorporation by reference. If interference studies are required by rule, attach these as an exhibit.

### **Incorporation by Reference**

You may incorporate by reference documents, exhibits, or other lengthy showings already on file with the FCC only if: the information previously filed is more than one 8½" by 11" page in length, and all information therein is current and accurate in all significant respects; the reference states specifically where the previously filed information can be found (*i.e.*, station call sign and application file number, title of proceeding, docket number and legal citations), including exhibit and page references. Use the relevant item number followed by 'A'. Items that call for numbers, or which can be answered 'Y' or 'N' or other short answers must be answered directly without reference to a previous filing.

### **Waiver Requests**

Requests for waiver must contain as an exhibit a statement of reasons sufficient to justify a waiver. The required showing must be made for all rule waivers desired, identifying the specific rules or policies for which the waiver is requested. Refer to the Wireless Telecommunications Bureau Fee Filing Guide for fee requirements for waivers. For assistance with fees applicable to the radio services governed by the FCC's rules, call (202) 418-0220 or 1-888-CALL-FCC (225-5322), or e-mail questions to FCCITD@fcc.gov.

### **Frequency Coordinations**

Applications for certain station authorizations in Parts 80, 87, and 90 may be required to be initially submitted to a certified frequency coordinator for the radio service or frequency pool involved. Refer to the rules for your radio service for detailed information regarding frequency coordination. For frequency coordination fee information, contact the frequency coordinators for your radio service.

After the completion of frequency coordination, some radio services require the frequency coordinator to forward these applications to the FCC. Check with your frequency coordinator for applicability. All other applications shall be filed by the applicant at the correct address listed on the most current Fee Filing Guide. Applications should be filed at least sixty (60) days prior to the date upon which the radio facilities are required to be in operation.

For information regarding certified coordinators for your radio service, contact the Federal Communications Commission, 1270 Fairfield Road, Gettysburg, PA 17325-7245, call 1-888-CALL-FCC (225-5322), or e-mail questions to FCCITD@fcc.gov.

### **English to Metric Conversions**

All heights and distances must be provided as metric values. The following English to Metric equivalents should be used to convert heights and distances, where necessary:

1 foot	=	0.3048 meters
1 mile	=	1.6093 kilometers
1 nautical mile	=	1.85 kilometers

### **For Assistance**

For assistance with this application, contact the Federal Communications Commission, 1270 Fairfield Road, Gettysburg, PA 17325-7245, call 1-888-CALL-FCC (225-5322), or e-mail questions to FCCITD@fcc.gov.

### **Electronic Filers**

Applicants filing electronically should follow procedures contained in online help files. For technical assistance with filing electronically, contact the Wireless Telecommunications Bureau Technical Support line, (202) 414-1250.

# Instructions for FCC 601 Main Form

## ►Radio Service Code

**Item 1** Enter the Radio Service Code for which the applicant is filing by inserting the appropriate code from the following list:

### Geographically Licensed Services

Cellular Radiotelephone	CL
General Wireless Communications Service (GWCS)	GW
218-219 MHz Service	ZV
Local Multipoint Distribution Service (LMDS)	LD
Location and Monitoring Service, Multilateration (LMS)	LS
Paging and Radiotelephone, Market Area	
Part 22 Paging	CZ
Part 90, 929-930 MHz Exclusive	GC
Personal Communications Service (PCS)	
Broadband	CW
Narrowband	CN
Public Coast, Market Area	PC
SMR, 806-821/851-866 MHz, Market Area	YC
SMR, 896-901/935-940 MHz, Market Area	YD
Wireless Communications Service (WCS)	WS
220 MHz, Market Area	QA
39 GHz, Market Area	TN

### Site-Specific Land Mobile

#### Part 22 - Site-Specific

##### Air-ground

Commercial (800 MHz)	CA
General (454 MHz)	CG
Offshore Radiotelephone	CO
Paging and Radiotelephone, Site-Specific	CD
Rural Radiotelephone	CR
BETRS	CB

#### Part 90 - Below 800 MHz

Industrial/Business Pool - Commercial, Conventional	IK
Industrial/Business Pool - Commercial, Trunked	YK
Industrial/Business Pool - Private, Conventional	IG
Industrial/Business Pool - Private, Trunked	YG
Land Mobile Radiolocation	RS
Public Safety Pool, Conventional	PW
Public Safety Pool, Trunked	YW
220 MHz, Phase I Nationwide Commercial 5-Channel	NC
220 MHz, Site-Specific	
Non-Nationwide Data	QD
Non-Nationwide Other	QO
Non-Nationwide Public Safety/Mutual Aid	QM
Non-Nationwide, 5-Channel Trunked	QT

#### Part 90 - Above 800 MHz

##### Business

806-821/851-866 MHz, Conventional	GB
896-901/935-940 MHz, Conventional	GU
806-821/851-866 MHz, Trunked	YB
896-901/935-940 MHz, Trunked	YU
Industrial/Land Transportation	
806-821/851-866 MHz, Conventional	GO
896-901/935-940 MHz, Conventional	GI
806-821/851-866 MHz, Trunked	YO
896-901/935-940 MHz, Trunked	YI
Land Mobile Radiolocation	RS
Location and Monitoring Service (LMS)	
902-928 MHz Location Wideband (Grandfathered AVM)	LW
902-928 MHz Location Narrowband (Non-Multilateration)	LN

Paging	
929-930 MHz, Site-Specific	GS
Public Safety/Special Emergency	
806-821/851-866 MHz, Conventional	GP
896-901/935-940 MHz, Conventional	GA
806-821/851-866 MHz, Trunked	YP
896-901/935-940 MHz, Trunked	YA
Public Safety, National Plan	
821-824/866-869 MHz, Conventional	GF
821-824/866-869 MHz, Trunked	YF
SMR, Site-Specific	
806-821/851-866 MHz, Conventional	GX
896-901/935-940 MHz, Conventional	GR
806-821/851-866 MHz, Trunked	YX
896-901/935-940 MHz, Trunked	YS
<b>Site-Specific Microwave</b>	
Digital Electronic Message Service	
Common Carrier	CE
Private	PE
Local Television Transmission	CT
Microwave Radiolocation	WR
Point-to-Point Microwave, Common Carrier	CF
Point-to-Point Microwave, Private	
Eligibility – Aviation	WA
Eligibility – Industrial/Business	MG
Eligibility – Marine	WM
Eligibility – Public Safety	MW
<b>Maritime Coast/Aviation Ground</b>	
Maritime	
Alaska Group	MK
Coastal Group	MC
Marine Auxiliary	MA
Marine Radiolocation Land	MR
Aviation	
Aeronautical and Fixed	AF
Aviation Auxiliary Group	AA
Aviation Radionavigation	AR
<b>Broadcast Auxiliary</b>	
Land Mobile	
Broadcast Auxiliary – Low Power	LP
Broadcast Auxiliary – Remote Pickup	RP
Microwave	
Aural Intercity Relay	AI
Aural Microwave Booster	AB
Aural Studio Transmitter Link	AS
TV Intercity Relay	TI
TV Microwave Booster	TB
TV Pickup	TP
TV Studio Transmitter Link	TS
TV Translator Relay	TT

## •Application Purpose

**Item 2** Indicate the purpose for which the application is being filed by inserting the appropriate two-letter abbreviation from the following list. Only one purpose may be specified.

**NE - New:** To request a new license. This purpose should only be used for initial applications.

**MD - Modification:** To request a change in the conditions of any data (administrative or technical) for a license during the term of that license. This purpose is also used to apply for a site-specific authorization in a market based service to fulfil environmental assessment requirements or international coordination requirements. Use Item 5 to provide the call sign of the affected station. All appropriate schedules must be completed and attached, and must accurately describe the data that has been modified. See applicable Commission rules.

**Note:** After a license is modified, the FCC will issue a new license and previous versions of the license will no longer be valid, regardless of the expiration date shown. License terms will not be extended as a result of an application for modification.

**AM - Amendment:** To amend a previously-filed, currently pending application. Use Item 4 to provide the file number of the application. All appropriate schedules must be completed and attached, and must accurately reflect the amendment's data. See applicable Commission rules. If the amendment affects multiple file numbers (administrative data only), complete and attach Schedule for Changes Affecting Multiple Call Signs or File Numbers, Form FCC 601, Schedule A.

**RO - Renewal Only:** To renew an existing authorization, Special Temporary Authorization (STA), or developmental authorization that has not expired and where no changes in the conditions are being requested at the time of renewal. (To make any modifications to the main form or technical data, use the Renewal/Modification purpose.) Use Item 5 to provide the call sign of the affected station. If the renewal affects multiple call signs, complete and attach Schedule for Changes Affecting Multiple Call Signs or File Numbers, Form FCC 601, Schedule A.

**RM - Renewal/Modification:** To renew an existing authorization, Special Temporary Authorization (STA), or developmental authorization and request a change in the conditions of that authorization. Use Item 5 to provide the call sign of the affected station. All appropriate schedules must be completed and attached, and must accurately describe the data that has been modified.

**CA - Cancellation of License:** To cancel an existing license. In Item 5 provide the call sign to be canceled. To cancel multiple licenses, complete and attach Schedule for Changes Affecting Multiple Call Signs or File Numbers, Form FCC 601, Schedule A, listing all the call signs to be canceled. This action cancels all facilities operating under the call sign. To delete specific authorized facilities under a call sign, use the modification purpose.

**CO - Consolidate Call Signs:** To consolidate multiple call signs into a single call sign, list existing call signs to be deleted on Schedule A, Schedule for Changes Affecting Multiple Call Signs or File Numbers. The call sign to be retained should be listed in Item 5 of the FCC 601 Main Form.

**WD - Withdrawal of Application:** To withdraw a previously-filed, currently pending application. Use Item 4 to provide the file number of the application. If the withdrawal affects multiple file numbers, complete and attach Schedule for Changes Affecting Multiple Call Signs or File Numbers, Form FCC 601, Schedule A.

**DU - Duplicate License:** To request a hardcopy duplicate of an existing license. Use Item 5 to provide the call sign of the affected station. If duplicate licenses are needed for multiple call signs, complete and attach Schedule for Changes Affecting Multiple Call Signs or File Numbers, Form FCC 601, Schedule A.

**NT - Required Notifications:** To notify the FCC that, within the required time period, coverage or construction requirements have been satisfied or compliance with yearly station construction commitments for licensees with approved extended implementation plans has been met. This schedule can also be used to notify the FCC of a request in the Paging Radiotelephone Services for regular authorization for facilities previously operating under developmental authority. Also complete and attach Required Notifications for Wireless Services, Form FCC 601, Schedule K.

**EX - Request for Extension of Time:** To request additional time to satisfy coverage or construction requirements. Also complete and attach Extension of Time Requests for Wireless Services, Form FCC 601, Schedule L.

**AU - Administrative Update:** To request a change of any administrative data on a license. These changes are limited to the following: Changes in license name (without a change in ownership, control or corporate structure), address, phone number, fax number, and email, and changes in contact information. Use Item 5 to provide the call sign of the affected station. If the administrative update is needed for multiple call signs, complete and attach Schedule for Changes Affecting Multiple Call Signs or File Numbers, Form FCC 601, Schedule A.

**Note:** After a license is modified, the FCC will issue a new license and previous versions of the license will no longer be valid, regardless of the expiration date shown. License terms will not be extended as a result of an application for modification.

**Item 3** If the filing is a request for a Developmental License or a Special Temporary Authorization (STA), enter 'D' or 'S', respectively. Otherwise, enter 'N' for Not Applicable. The FCC may grant applications for developmental authority to construct and operate transmitters for the purpose of developing a new radio service or a new technology not regularly authorized under specific FCC rules, subject to the appropriate requirements governing developmental authorizations contained in the FCC rules. In circumstances requiring immediate or temporary use of facilities, request may be made for special temporary authority to install and/or operate new or modified equipment, subject to the appropriate requirements governing Special Temporary Authorizations contained in the FCC rules.

**Item 4** If the filing is an Amendment or Withdrawal of a previously-filed currently pending application, provide the file number of the original application. This information can be obtained by contacting the FCC at 1-888-CALL-FCC (225-5322). If the amendment or withdrawal affects multiple file numbers, complete and attach Schedule for Changes Affecting Multiple Call Signs or File Numbers, Form FCC 601, Schedule A.

**Item 5** The information requested in this item identifies the existing stations to which the filing is relevant. If the filing is a request for a Modification, Renewal Only, Renewal/Modification, Cancellation, Duplicate, or Administrative Update of an existing license, enter the call sign of the license. If the request affects multiple call signs, complete and attach Schedule for Changes Affecting Multiple Call Signs or File Numbers, Form FCC 601, Schedule A.

If the filing is a request to Consolidate Call Signs, enter the call sign to be retained in this item and list the existing call signs to be deleted on Schedule A, Schedule for Changes Affecting Multiple Call Signs or File Numbers.

**Item 6** This item is optional. If the filing is a request for a New, Amendment, Renewal Only, or a Renewal/Modification, enter the requested authorization expiration date. Applicants may, if desired, request the month and day of license expiration. However, in no cases will licenses be granted for terms that exceed the license term as governed by the rules for each service.

**Item 7** This question applies only to site-specific and Cellular authorizations. If the filing is a request for a Modification, Renewal/Modification, or Amendment of a currently pending Modification of a site-specific authorization, indicate whether the request will increase or expand the composite coverage area, service area, or interference contour as defined in the Commission's rules for your service; or for a Cellular authorization, indicate whether the request will result in an expansion of the CGSA (after expiration of the 5 year build out period), a *de minimus* SAB extension into unserved area in an adjacent market, or a change of channel block as defined in Part 22 of the Commission's rules. If the answer is 'Y', the filing will be treated as a request for major modification. If the rules for your service do not define coverage area, service area, or interference contour, enter 'N'.

**Item 8a** If the filing is a request for a waiver of the Commission's rules, enter 'Y' and attach an exhibit that lists the rule section(s) of the affected rules and explains the circumstances. Otherwise, enter 'N'.

**Item 8b** Waiver requests in certain non-common carrier wireless services are subject to filing fees based on the number of rules for which waiver is sought multiplied by the number of stations affected by the waiver. If the waiver request involves a covered service, multiply the number of stations by the number of rule sections. Consult the Wireless Telecommunications Bureau Fee Filing Guide for information on which services are covered and fee amounts.

**Item 9** Enter 'Y' if attachments are being filed with this application. Otherwise, enter 'N'.

#### ► Applicant Information

Items 10 through 24 identify the applicant. If an authorization is granted, the information provided will become the licensee's name, address, and telephone number of record. The FCC will send the authorization and notice of all final dispositions of an application to this address.

**Item 10a** For individuals, enter the Social Security Number. For all other filers, enter the Employer Identification Number. This data is required to comply with the Debt Collection Improvement Act of 1996. This information will not be made available for public inspection.

**Item 10b** This item must be filled out if in addition to providing a TIN, you have obtained a Sub-Group Identification Number (SGIN) from the FCC. A SGIN is required in instances where the applicant or licensee does not have a unique TIN because it is a sub-group or department of the entity identified by the TIN (e.g., a governmental entity or academic institution) and therefore shares the TIN with other subgroups or departments of the same entity. The SGIN allows each sub-group to track the licenses it holds. The SGIN is not needed for entities that have a unique TIN that is not used by any other licensee.

**Item 11** This item indicates the legal entity type of the applicant. Enter 'I' for Individual, 'U' for Unincorporated Association, 'T' for Trust, 'G' for Government Entity, 'J' for Joint Venture, 'C' for Corporation, 'L' for Limited Liability Corporation, 'P' for Partnership, or 'O' for Consortium.

**Items 12-13** If Item 11 is 'I' (for Individual), enter the name of the person applying in Item 12. Otherwise, enter the name of the entity in Item 13.

**Item 14** Applicants must identify a real party (parties) in interest if different from the applicant. If the applicant is also the real party in interest, enter the applicant's name in this item. If a party other than the applicant is the real party in interest (e.g., a parent or other controlling entity), enter that party's name in this item. If there is more than one real party in interest, attach an exhibit detailing all parties in interest.

The Real Party in Interest is defined as a person who "has an ownership interest, or will be in a position to actually or potentially control the operation of the station." *Astroline Communications Company Limited Partner v. FCC*, 857 F.2d 1556, 1564 (D.C. Cir. 1988); see also *In Re Applications of Georgia Public Telecommunications Commission, et al.*, MM Docket No. 89-337, 7 FCC Rcd 7996 (rel. Dec. 9, 1992); *In Re Applications of Madalina Broadcasting, et al.*, MM Docket No. 91-100, 8 FCC Rcd 6344 (rel. September 3, 1993).

**Item 15** Enter the Taxpayer Identification Number for the Real Party in Interest. For individuals, enter the Social Security Number. For all other filers, enter the Employer Identification Number. This information will not be made available for public inspection.

**Items 16-22** Enter the name, address, and telephone number of the person to whom the FCC should send correspondence. You may enter a post office box number in Item 17 or a street address in Item 18, or enter information for both items. Enter the city, state, and zip code in Items 19, 20, and 21, respectively. Refer to FCC 601 Main Form Instructions, Appendix II, for a list of valid state, jurisdiction, and area abbreviations. Enter a telephone number, including area code, in Item 22.

**Items 23 and 24** Enter the applicant's fax number and e-mail address, if desired and available.

Failure to respond to FCC correspondence sent to the address of record may result in dismissal of an application, liability for forfeiture, or revocation of an authorization.

#### ►Contact Information

**Items 25-34** These items identify the contact representative, if different from the applicant. This is usually the headquarters office of a large company, the law firm or other representative of the applicant, or the person or company that prepared or submitted the application on behalf of the applicant. If there is a question about the application, an FCC representative will communicate with the applicant's contact representative.

If this section is used, a name (Item 25) and telephone number (Item 32) are required at a minimum. If the address items are completed, you may enter a post office box number in Item 27 or a street address in Item 28, or enter information for both items. Refer to FCC 601 Main Form Instructions, Appendix II, for a list of valid state, jurisdiction, and area abbreviations.

#### ►Regulatory Status

**Item 35** This item identifies the type(s) of radio service offerings being provided. Enter all types of radio service offerings that apply. Enter 'C' for Common Carrier, 'N' for Non-Common Carrier, and 'P' for Private, internal communications. Use the Modification (MD) purpose in Item 2 to change or add radio service offerings.

All entities that are telecommunications carriers should select common carrier on this form. The term 'telecommunications carrier' means any provider of telecommunications services, except that such term does not include aggregators of telecommunications services (the term 'aggregator' means any person that, in the ordinary course of its operations, makes telephones available to the public or to transient users of its premises, for interstate telephone calls using a provider of operator services). A telecommunications carrier shall be treated as a common carrier under the Communications Act and the Commission's rules (*i.e.*, as an entity which holds itself out for hire indiscriminately, in interstate or foreign communications by wire or radio, or in interstate or foreign radio transmission of energy, for the purpose of carrying transmissions provided by the customer), only to the extent that it is engaged in providing telecommunications services.

The term 'telecommunications service' means the offering of telecommunications (*i.e.*, the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received) for a fee directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used.

Non-common carriers do not hold themselves out indiscriminately for hire as carriers of communications provided by the customer. A person engaged in radio broadcasting shall not, insofar as such person is so engaged, be deemed a common carrier. Thus, those entities meeting this definition would select non-common carrier for this item.

Private internal users are those entities that utilize telecommunications services purely for internal business purposes or public safety communications and not on a for hire or for profit basis. Such entities should select 'Private' for this item.



## ►Type of Radio Service

**Item 36** This item identifies all types of radio services for the applicant. Enter 'F' for Fixed, 'M' for Mobile, 'R' for Radiolocation, and 'S' for Satellite. Enter all types of radio services, as applicable.

**Item 37** Mark this item 'Y' if the applicant proposes to provide interconnected service to the public switched telephone network, as defined in the FCC rules. Otherwise, mark this item 'N'.

## ►Fee Status

**Items 38-39** These items allow the applicant to apply for exemption from FCC application fees and regulatory fees. See the instructions for FCC Remittance Advice, FCC Form 159.

## ►Alien Ownership Questions

These items enable the FCC to determine whether an applicant is eligible under Section 310(a) and (b) of the Communications Act of 1934, as amended, to hold a station license. Applicants are required to answer these questions only if they are filing Form 601 for one of the following purposes indicated in Item 2: New, Amendment or Modification (if the applicant is seeking to change the regulatory status of the application or license from non-common carrier or private to common carrier – See Item 35), Renewal, or Renewal/Modification. Applicants using Form 601 for any other purpose are not required to answer these questions.

**Item 40** All applicants filing Form 601 for one of the purposes indicated above must answer Item 40. The FCC cannot grant an authorization to a foreign government or the representative of a foreign government. Therefore, if the true and correct answer to Item 40 is 'Yes', the applicant is not eligible for a license and the FCC will dismiss the application, if filed, without further consideration.

**Items 41-44** Only applicants to provide common carrier service must answer Items 41-44. The FCC cannot grant an authorization to provide common carrier service to any applicant for which the true and correct answer to any of Items 41, 42, or 43 is 'Yes.' The FCC will dismiss the application, if filed, without further consideration.

If the true and correct answer to Item 44 is 'Yes', the applicant must attach an exhibit explaining the circumstances. In the exhibit, the applicant must demonstrate how allowing the applicant to hold the requested license is consistent with the Commission's policies pursuant to Section 310(b)(4) of the Communications Act of 1934. In general, the Commission has indicated that there is a strong presumption that indirect foreign ownership of common carrier radio licensees by entities whose home markets are in countries that are members of the World Trade Organization (WTO) serves the public interest. If more than 25 percent of the ownership of an entity that controls a common carrier radio licensee is attributable to parties whose home markets are in non-WTO member countries, the Commission will evaluate whether those markets offer effective competitive opportunities to U.S. investors in the same service sector. See Rules and Policies on Foreign Participation in the U.S. Telecommunications Market, IB Docket No. 97-142, Report and Order and Order on Reconsideration, FCC 97-398, 12 FCC Rcd 23,891, ¶¶ 97-118, 131 (1997).

## ►Basic Qualification Questions

**Items 45-48** These items enable the FCC to determine whether an applicant is eligible under Section 310(a) and (b) of the Communications Act of 1934, as amended, to hold a station license. Applicants are required to answer these questions only if they are filing Form 601 for one of the following purposes indicated in Item 2: New, Amendment or Modification (if the applicant is seeking to change the regulatory status of the application or license from non-common carrier or private to common carrier – See Item 35), Renewal, or Renewal/Modification. Applicants using Form 601 for any other purpose are not required to answer these questions. If the applicant responds 'Yes' to any question and has previously provided a statement and explanation regarding the circumstances as an attachment to a prior application filed in ULS, and the facts and circumstances are unchanged, the applicant may refer to the previous application, by identifying the application file number and indicating the disposition of the prior application.

## ►Optional Race/Gender question

**Items 49 and 50** This item requests information regarding whether the applicant or licensee is a member of a minority group and/or female (if an individual) or is owned or controlled by members of a minority group or women (if a corporation or other entity). Responses to this item are optional. The information is requested for informational purposes only, to assist the Commission in determining the percentage of wireless licenses that are held or controlled by members of minority groups and women. Responses to this item will in no way affect processing of applications.

•**General Certification Statements**

By signing this form, the applicant certifies that the statements listed in this section are true, complete, correct, and made in good faith.

•**Signature**

Items 51-53 These items must be completed. To be acceptable for filing, applications and amendments must be signed in accordance with Part 1 of the FCC rules. The signor must be a person authorized to sign the application. Paper originals of applications must bear an original signature. On paper originals, neither rubber-stamped nor photocopied signatures are acceptable.

## Appendix I

### List of Counties, by State, Having Areas North of Line A

For use with Schedules D, E, and I

Idaho	Missaukee	Clinton	Putnam
Bonner	Monroe	Erie	Sandusky
Boundary	Montcalm	Essex	Seneca
Shoshone	Montmorency	Franklin	Summit
	Oakland	Genesee	Trumbull
Indiana	Ogemaw	Hamilton	Williams
Allen	Ontonagon	Herkimer	Wood
De Kalb	Oscoda	Jefferson	
Steuben	Otsego	Lewis	<b>Pennsylvania</b>
	Presque Isle	Livingston	Crawford
Maine	Roscommon	Madison	Erie
Aroostook	Saginaw	Monroe	Warren
Franklin	Sanilac	Niagara	
Hancock	Schoolcraft	Oneida	Vermont
Kennebec	Shiawassee	Onondaga	Addison
Oxford	St. Clair	Ontario	Caledonia
Penobscot	Tuscola	Orleans	Chittenden
Piscataquis	Washtenaw	Oswego	Essex
Somerset	Wayne	Seneca	Franklin
Waldo		Steuben	Grand Isle
Washington		St. Lawrence	Lamoille
	<b>Minnesota</b>	Warren	Orange
Michigan	Beltrami	Washington	Orleans
Alcona	Carlton	Wayne	Rutland
Alger	Clearwater	Wyoming	Washington
Alpena	Cook	Yates	Windsor
Antrim	Itasca		
Arenac	Kittson	<b>North Dakota</b>	<b>Washington</b>
Baraga	Koochiching	Benson	Chelan
Bay	Lake	Bottineau	Clallam
Branch	Lake of the Woods	Burke	Douglas
Calhoun	Marshall	Cavalier	Ferry
Charlevoix	Pennington	Divide	Grays Harbor
Cheboygan	Polk	Grand Forks	Island
Chippewa	Roseau	McHenry	Jefferson
Claire	St. Louis	McKenzie	King
Clinton		Mountrail	Kitsap
Crawford	<b>Montana</b>	Nelson	Mason
Delta	Blaine	Pembina	Okanogan
Dickinson	Chouteau	Pierce	Pend Oreille
Eaton	Daniels	Ramsey	Pierce
Emmett	Fiathead	Renville	San Juan
Genesee	Glacier	Rolette	Skagit
Gladwin	Hill	Towner	Snohomish
Gogebic	Lake	Walsh	Spokane
Gratiot	Liberty	Ward	Stevens
Hillsdale	Lincoln	Williams	Whatcom
Houghton	McCone		
Huron	Phillips	<b>Ohio</b>	<b>Wisconsin</b>
Ingham	Pondera	Ashland	Ashland
Ionia	Richland	Ashtabula	Bayfield
Iosco	Roosevelt	Cuyahoga	Douglas
Iron	Sanders	Defiance	Florence
Isabella	Sheridan	Erie	Forest
Jackson	Teton	Fulton	Iron
Kalkaska	Toole	Geauga	Vilas
Keweenaw	Valley	Hancock	
Lapeer		Henry	
Leelanau	<b>New Hampshire</b>	Huron	
Lenawee	Carroll	Lake	
Livingston	Coos	Lorain	
Luce	Grafton	Lucas	
Mackinac		Medina	
Macomb	<b>New York</b>	Ottawa	
Marquette	Allegany		
Menominee	Cattaraugus	Paulding	
Midland	Cayuga	Portage	
	Chautauqua		

## Appendix II

### STATE TABLE

#### Abbreviations for States, Jurisdictions, and Areas

AL	Alabama	NJ	New Jersey
AK	Alaska	NM	New Mexico
AZ	Arizona	NY	New York
AR	Arkansas	NC	North Carolina
CA	California	ND	North Dakota
CO	Colorado	OH	Ohio
CT	Connecticut	OK	Oklahoma
DE	Delaware	OR	Oregon
DC	District of Columbia	PA	Pennsylvania
FL	Florida	RI	Rhode Island
GA	Georgia	SC	South Carolina
GM	Gulf of Mexico	SD	South Dakota
HI	Hawaii	TN	Tennessee
ID	Idaho	TX	Texas
IL	Illinois	UT	Utah
IN	Indiana	VT	Vermont
IA	Iowa	VA	Virginia
KS	Kansas	WA	Washington
KY	Kentucky	WV	West Virginia
LA	Louisiana	WI	Wisconsin
ME	Maine	WY	Wyoming
MD	Maryland	AS	American Samoa
MA	Massachusetts	GU	Guam
MI	Michigan	UM	Midway Island
MN	Minnesota	MP	Northern Mariana Islands
MS	Mississippi	PR	Puerto Rico
MO	Missouri	VI	Virgin Islands
MT	Montana	UM	Wake Islands
NE	Nebraska		
NV	Nevada		
NH	New Hampshire		

1) Radio Service Code:

Application Purpose (Select only one) ( )

2)	NE - New MD - Modification AM - Amendment	RO - Renewal Only RM - Renewal/Modification CA - Cancellation of License	CO - Consolidate Call Signs WD - Withdrawal of Application DU - Duplicate License	NT - Required Notifications EX - Requests for Extension of Time AU - Administrative Update
3)	If this request is for a <u>Developmental</u> License or an <u>STA</u> (Special Temporary Authorization), enter the appropriate code; otherwise enter <u>N</u> (Not Applicable).			( ) <u>D</u> <u>S</u> <u>N/A</u>
4)	If this request is for an Amendment or Withdrawal, enter the file number of the pending application currently on file with the FCC.			File Number
5)	If this request is for a Modification, Renewal Only, Renewal/Modification, Cancellation of License, Consolidate Call Signs, Duplicate License, or Administrative Update, enter the call sign of the existing FCC license.			Call Sign
6)	If this request is for a New, Amendment, Renewal Only, or Renewal/Modification, enter the requested authorization expiration date (this item is optional).			MM DD
7)	If this request is for a Modification, Renewal/Modification, or Amendment of a currently pending Modification of a site-specific authorization, will the request increase or expand the composite coverage area, service area, or interference contour as defined in the Commission's rules for your service; or for a Cellular authorization, will the request result in an expansion of the CGSA (after expiration of the 5 year build out period), a <i>de minimus</i> SAB extension into unserved area in an adjacent market, or a change of channel block as defined in Part 22 of the Commission's rules?			( ) <u>Yes</u> <u>No</u>
8a)	Does this filing request a Waiver of the Commission's rules? If 'Yes', attach an exhibit providing rule numbers and explaining circumstances.			( ) <u>Yes</u> <u>No</u>
8b)	If a feeable waiver request is attached, multiply the number of stations times the number of rule sections and enter the result.			
9)	Are attachments being filed with this application?			( ) <u>Yes</u> <u>No</u>

Applicant Information

10a) Taxpayer Identification Number:		10b) SGIN:	
11) Applicant/Licensee is a(n): ( )			
<u>Individual</u>	<u>Unincorporated Association</u>	<u>Trust</u>	<u>Government Entity</u>
<u>Corporation</u>	<u>Limited Liability Corporation</u>	<u>Partnership</u>	<u>Consortium</u>
12) First Name (if individual):	MI:	Last Name:	Suffix:
13) Entity Name (if other than individual):			
14) Name of Real Party in Interest of Applicant:		15) Taxpayer Identification Number:	

**Applicant Information (continued)**

16) Attention To:			
17) P.O. Box:	And /Or	18) Street Address:	
19) City:		20) State:	21) Zip:
22) Telephone Number:		23) FAX:	
24) E-Mail Address:			

**Contact Information (If different from the applicant)**

25) First Name:	MI:	Last Name:	Suffix:
26) Entity Name:			
27) P.O. Box:	And /Or	28) Street Address:	
29) City:		30) State:	31) Zip:
32) Telephone Number:		33) FAX:	
34) E-Mail Address:			

**Regulatory Status**

35) This filing is for authorization to provide or use the following type(s) of radio service offering (enter all that apply):			
( ) <u>C</u> ommon Carrier	( ) <u>N</u> on-Common Carrier	( ) <u>P</u> rivate, internal communications	

**Type of Radio Service**

36) This filing is for authorization to provide the following type(s) of radio service (enter all that apply):			
( ) <u>F</u> ixed	( ) <u>M</u> obile	( ) <u>R</u> adiolocation	( ) <u>S</u> atellite (sound)
37) Interconnected Service?			( ) <u>Y</u> es <u>N</u> o

**Fee Status**

38) Is the applicant exempt from FCC application fees?	( ) <u>Y</u> es <u>N</u> o
39) Is the applicant exempt from FCC regulatory fees?	( ) <u>Y</u> es <u>N</u> o